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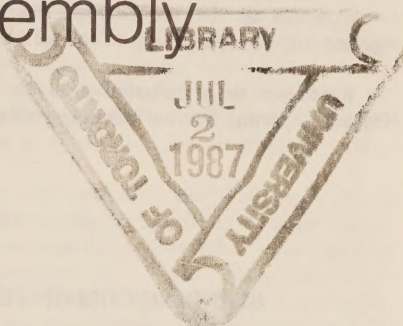


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Hansard

Official Report of Debates

Legislative Assembly of Ontario



Standing Committee on Resources Development

Annual Report, Workers' Compensation Board, 1984

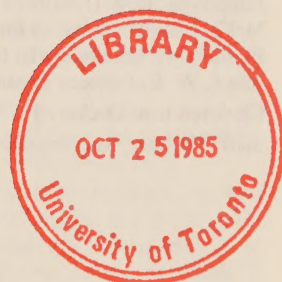
First Session, 33rd Parliament

Tuesday, October 1, 1985

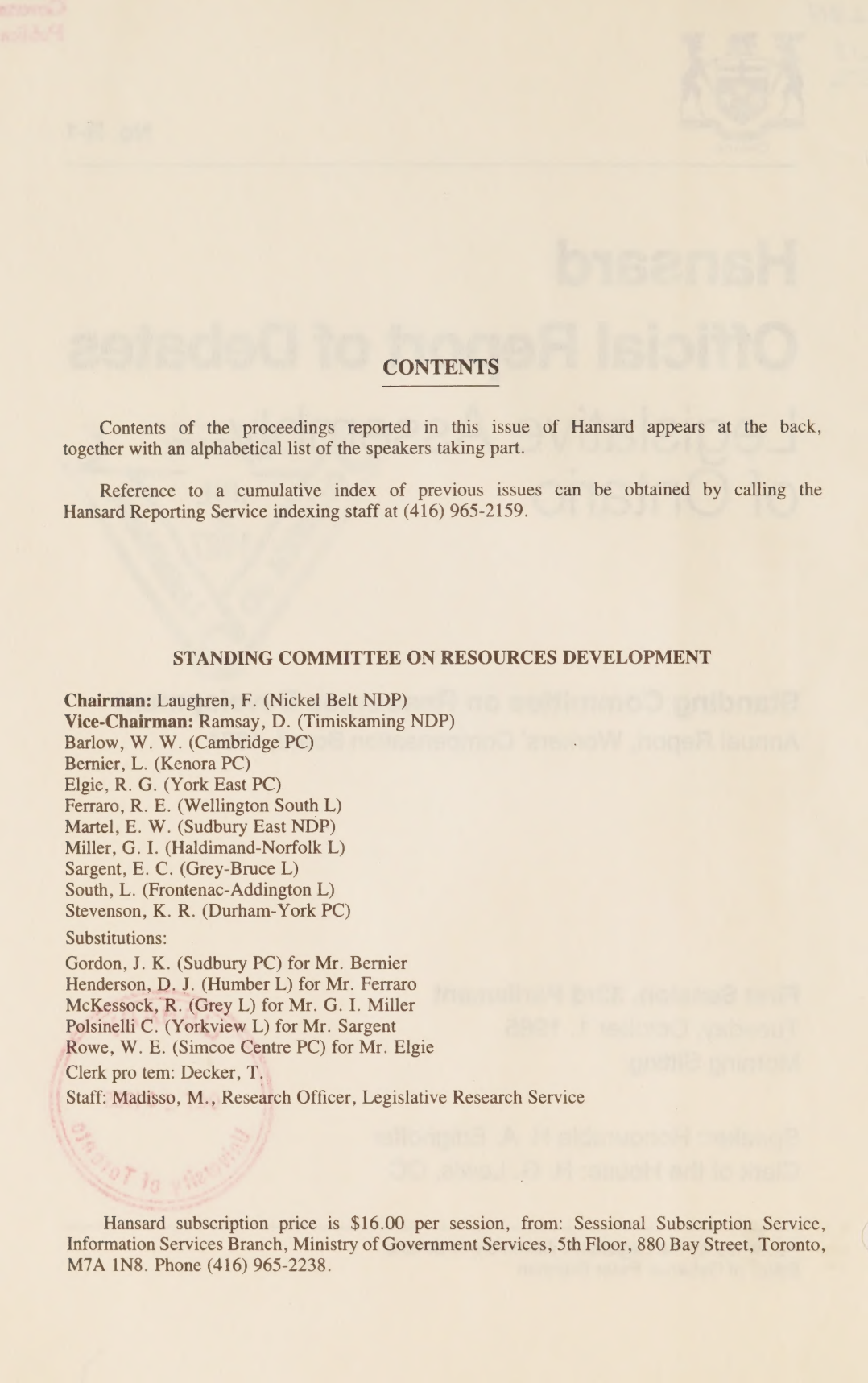
Morning Sitting

Speaker: Honourable H. A. Edighoffer

Clerk of the House: R. G. Lewis, QC



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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Vice-Chairman: Ramsay, D. (Timiskaming NDP)

Barlow, W. W. (Cambridge PC)

Bernier, L. (Kenora PC)

Elgie, R. G. (York East PC)

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Substitutions:

Gordon, J. K. (Sudbury PC) for Mr. Bernier

Henderson, D. J. (Humber L) for Mr. Ferraro

McKessock, R. (Grey L) for Mr. G. I. Miller

Polsinelli C. (Yorkview L) for Mr. Sargent

Rowe, W. E. (Simcoe Centre PC) for Mr. Elgie

Clerk pro tem: Decker, T.

Staff: Madisso, M., Research Officer, Legislative Research Service

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, October 1, 1985

The committee met at 10:16 a.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984

Mr. Chairman: The committee will come to order. I see a quorum. I would like to welcome the members to these hearings. As you know, we were directed by the Legislature to look into the 1984 annual report of the Workers' Compensation Board, and we have set aside this week and next.

In particular, I would like to welcome the Minister of Labour (Mr. Wrye) and the chairman of the Workers' Compensation Board, Dr. Elgie. In a moment, I will ask Dr. Elgie to introduce any of his people who are here.

The clerk will distribute the schedule of what we intend to do for the next couple of weeks. Before we get to that, there is a decision or two we must make. One is what we do at the conclusion of these hearings. This is for the members of the committee to decide. We were not directed by the Legislature to report back, but there is one possibility, which is why Merike Madisso is with us.

If the committee wants to prepare a summary of the representations made, because there will be representations all next week, we could have that done in the last day or so of the hearings. You will notice on the schedule that next week, Monday, October 7, is used up by the injured workers and the Industrial Accident Victims' Group of Ontario, etc., and Tuesday and Wednesday as well. There is also a group on Thursday morning. That would leave us the rest of Thursday, and Friday if we need it, to prepare what I would call not a report so much as a summary of what has gone on at these hearings.

That will be my recommendation, because otherwise we will have conducted our hearings with nothing flowing from them except Hansard. That is not to suggest it is not important and widely read, but one way to provide some focus for what has gone on is to have a report prepared. That is my suggestion, if the committee wishes to do that.

Mr. Polsinelli: Perhaps we can defer making a decision on that point until we have heard all the submissions, and then we can determine whether

the committee feels there is something to report on.

Mr. Chairman: The only problem with that is it does not make sense to have Merike Madisso here for the full two weeks if we are not going to use her considerable talents at the end of those two weeks.

Mr. Martel: I suggest we have her compile the various recommendations that are made. We have had these little get-togethers over the years. I have found that nothing very positive has ever come as a result of the little gabfests we have. It is time the members of the Legislature laid it on the line as to how they want the board to conduct itself.

I am sure some of us will have a few things to say later on today or over the next couple of days. It seems to me that once we have made a series of recommendations, those recommendations should go to the Legislature, much as happens with the Ombudsman. If you have read his annual report for this year, it is not what one would call very complimentary to the board. I recommend it for late-night reading.

We should see whether we can deal with four or five crucial problems and get a resolution to them come next year, so we do something useful as opposed to just having a little tête-à-tête. Most of us do not need this unless something emanates from or as a result of this little gathering.

Mr. Chairman: I hear Mr. Martel saying there should be, not simply a summary of what has gone on at the hearings but actually a report.

Mr. Martel: We have to make recommendations as a result of what we hear, because it is time we got some changes around that place.

Mr. Chairman: What is the wish of the committee? Do you wish to prepare a report that contains recommendations? It is not in our mandate from the Legislature, but in my opinion that does not mean we could not do it.

Mr. Barlow: It would be worth while to have the information. Your original suggestion would have meant just a summary of what took place. Whether that forms our report or whether it broadens from there is a decision we can make as we go along. It does not matter to me, but it would be well worth while to have that information so action can be taken.

Mr. Gordon: I have to concur with Mr. Martel on this point. We have waited a long time for changes, and I would like to see some very definite recommendations by this committee when we have finished these sittings.

Mr. Chairman: Is there a consensus that at least we ask Merike to stay for the hearings and that we try very hard to save half of next Thursday and Friday to put something together? Obviously, we will not be able to complete it, because Merike is going to have to go and write something. When the Legislature comes back, that will have to be presented to the members for approval.

Do the members have any problem with that? We can hammer out whether there are specific recommendations, or simply a summary, when we are working on it next week. Is there any problem with that? We will assume that is what we will do.

The schedule for this morning is to hear from the Minister of Labour and after that from the chairman of the Workers' Compensation Board. I am very pleased to be in the chair and to be able, for the first time, to protect the board from vicious attacks by self-serving members who would further their careers at the expense of the board.

Interjection: This certainly is a different place, is it not?

Mr. Chairman: Yes, it is.

Mr. Gordon: We will be watching.

Mr. Chairman: Without further comment, I will ask the minister to say a few words.

Hon. Mr. Wrye: Let me start out by congratulating you on your appointment as chairman of this committee and by noting that in the next two weeks you will undoubtedly manage to find a few moments in which to make some comments on your perceptions of the board and the changes of which you are aware, as you have done so eloquently over the years.

At the outset, I also want to acknowledge and congratulate my critic for the Progressive Conservative Party, Mr. Gordon, on his appointment; we all look forward to working with him. I also acknowledge in a formal way the critic for workers' compensation issues for the New Democratic Party, Mr. Martel, with whom I have had some considerable experience over the years and with whom I have had some discussions already as minister.

As members of this committee are very much aware, the last five years have been a period of considerable significance for the workers' com-

pensation system in this province. During that time an important and comprehensive study of the benefits structure, financing and administration of the system, conducted by Professor Paul Weiler, was launched and completed, resulting in the publication of two reports in November 1980 and April 1983.

A government white paper was released in mid-1981 and was later the subject of extensive hearings before this committee, culminating in a major report in late 1983. Bill 101, incorporating a number of structural reforms related to benefit entitlements and administrative procedures, was introduced and passed in 1984.

The consultation exercise associated with this series of events has been invaluable in encouraging those most directly involved in and affected by the operation of the system to participate in identifying its perceived deficiencies and advancing proposals for their correction. The result has been the laying of what I believe to be a firm foundation for the construction of a more humane and a more effective workers' compensation system in Ontario.

Despite this promising start, a great deal of work still remains to be done in completing the task of reform. The next two or three years represent a particularly significant stage in this process, requiring as they do the successful assimilation into the system of the measures already introduced as well as the development of innovative responses to the problems yet to be solved. The leadership and capacity for adaptation displayed by the Workers' Compensation Board will be a crucial ingredient in ensuring a successful conclusion to this venture.

This being the case, I feel the government and the people of this province are especially fortunate in securing the services of Dr. Robert Elgie as chairman of the WCB. Dr. Elgie has served with great distinction in the Ontario Legislature for the past eight years, having been first elected in 1977 as MPP for the riding of York East.

In the intervening period he successively held the post of parliamentary assistant to the Minister of Community and Social Services, followed by appointment as Minister of Labour from 1978 to 1982, Minister of Consumer and Commercial Relations from 1982 to earlier this year and, finally, brief spells as Minister of Community and Social Services and again as Minister of Labour.

Dr. Elgie is a graduate of both Osgoode Hall law school and the University of Ottawa medical school. Immediately before entering the Legisla-

ture, he was chief of medical staff at Scarborough General Hospital, the culmination of a very successful career as a neurosurgeon. His combination of legal and medical training, allied with his service in the political arena, in particular as Minister of Labour, makes Dr. Elgie uniquely qualified to serve as chairman of the Workers' Compensation Board.

In fact, it was during his time as Minister of Labour that the Weiler inquiry was initiated and the subsequent government white paper published. In a very real sense, Dr. Elgie can be truly said to have been instrumental in launching and promoting the reform process to which I referred a few minutes ago.

I know I speak for all of his past parliamentary colleagues, regardless of political allegiance, when I say that his immense contribution to the business of the Legislative Assembly and to government generally will be sorely missed. However, as Minister of Labour, and therefore as the minister responsible for the board, I confess that my regret at his departure from the Legislature is tempered by the thought that I stand to be one of the beneficiaries of his wisdom and advice in his new role as chairman of the board.

Having introduced the new chairman, I would be remiss if I let this moment pass without expressing my sincere thanks to the outgoing chairman, Lincoln Alexander, and offering my congratulations on his recent appointment as Lieutenant Governor of Ontario. Although I have known Linc personally for only a few years, in that time I have acquired a great deal of respect for him both as a public servant and as a person. I believe he deserves a strong vote of thanks for his dedicated service as chairman during the past five years, and I wish him every success in his new career.

Those of you who participated in or otherwise followed the lengthy discussions on workers' compensation matters that occurred in this committee and in the Legislature, on the 1981 white paper and on Bill 101, will be aware of the fact that I quite often did not agree with the approach taken by the then government. In large measure, my objections to Bill 101 were concerned with its omissions, the things it failed to do, rather than with those it did do. As I suggested earlier, it laid a foundation for progressive reform, but it failed to follow through in addressing the multitude of problems that had emerged in the system as a result of the previous long years of neglect.

The centrepiece of any workers' compensation system, the fulcrum on which all other elements of the benefits structure rest, is the permanent disability pension scheme. This was left virtually untouched by Bill 101, set aside to be the subject of a vague and indefinite future review, despite the widespread dissatisfaction expressed by almost all sections of the board's clientele, injured workers and employers alike, with the way the present system was operating.

While I do not underestimate the difficulties involved in transforming this system into one that is more equitable and appropriate to the needs of injured workers, nevertheless I regard reform in this area as a matter of some urgency. I intend to return to this question and to a number of other related reform issues in a moment. Before doing so, however, I would like to revisit Bill 101 briefly in two particular respects.

First, even within the somewhat circumscribed scope of Bill 101 as introduced, there were at least two issues that I believe could have and should have been addressed immediately but were instead either deferred or simply ignored. I refer to the treatment of the existing surviving spouses, who were ineligible for the new dual award scheme introduced in the bill, and to the benefits indexation issue.

The second aspect of Bill 101 I wish to comment on relates to the administrative and procedural reforms, which are scheduled to commence operation today. Any member who has been in this House for any length of time is familiar with the annual ritual surrounding the determination of each year's general adjustment to be applied to WCB benefits and the covered earnings ceiling.

Despite the fact that increases in the past decade have occurred at regular intervals and have throughout most of that time closely approximated the prevailing rate of inflation, injured workers' groups and other labour organizations have quite rightly objected to the subjection of what should be a relatively straightforward calculation exercise to the vicissitudes of the political arena.

There is no good reason why the financial wellbeing of injured workers should be held hostage to the outcome of a secretive process that takes place within the confines of cabinet. It is my intention, therefore, to bring forward to my cabinet colleagues a proposal for the automatic indexation of benefits.

The new dual award scheme for surviving spouses contained in Bill 101 is a distinct and very welcome improvement over the previous

scheme, which provided the same flat rate and inadequate level of benefit for all dependent spouses, regardless of the previous earnings of the deceased. Unfortunately and regrettably, the introduction of a new and better scheme offers little encouragement to those earlier recipients whose pension entitlements continue to be computed in the same manner and at the same level as before.

While I understand some of the practical difficulties associated with the direct application of the new scheme to pre-existing pension recipients, I firmly believe that every effort must be made to improve their financial position. As of July 1, 1985, surviving spouses and dependent children whose pensions and allowances were paid in respect of fatalities that occurred before April 1, 1985, received an eight per cent increase, compared with the five per cent general increase applied to other pension benefits. The additional three per cent margin represented the first instalment, as it were, of an attempt to close the average gap between the actual pension entitlements of existing survivors and the theoretical entitlements that would on average accrue to those same persons had they been eligible for the new survivors' pension scheme.

10:30 a.m.

As I understand it, the overall magnitude of this gap has been estimated at about 13 per cent. Thus, three per cent of this amount has in effect been paid, leaving approximately 10 per cent still to come. Rather than continue to reduce this amount incrementally over an extended period of time, in my view it would be more appropriate to seek to eliminate the gap as quickly as possible. The cost of doing so is very small in relation to the total operating cost of the system as a whole.

There are few, if any, who would argue with the assertion that no group within the compensation system is more deserving of special attention than surviving spouses. I intend to make every effort to see to it that the average gap in pension entitlements between old and new claimants for the surviving spouse's benefit is completely eliminated in the shortest possible time.

The members of this committee will be aware that among the measures contained in Bill 101 to improve administrative structures and procedures within the workers' compensation system was the creation or transformation of six bodies to perform various important roles in that process. During the summer a steering committee within the Ministry of Labour has been busily engaged in completing all the arrangements necessary to make these bodies fully operational,

including filling in the details of how they will operate, identifying and selecting appointees and support staff, securing budget allocations and approvals and so on. In some cases, appointments have already been publicly announced. In others, announcements will be forthcoming shortly as soon as all details have been finalized.

The new Workers' Compensation Appeals Tribunal, which will be fully independent of the Workers' Compensation Board and will include equal numbers of representatives of employers and workers, will be headed by Ron Ellis, QC, a highly respected member of the province's legal community and most recently director of education for the Law Society of Upper Canada.

Although he does not officially assume his new duties until today, Mr. Ellis has been very busy since his appointment was announced in June preparing for the commencement of operations of the new tribunal. In order to assess accurately the anticipated case load and to determine the most appropriate approach to the conduct of appeals investigations and hearings, Mr. Ellis has held a number of consultative meetings with interested parties, including representatives of organized labour, injured workers and the employer community.

Work is still under way in adding to the list of medical practitioners who will comprise the panel from which the appeals tribunal will draw for assistance and advice regarding medical issues. The principal focus is now on achieving a proper balance within the panel in respect of the various specialized branches of medicine represented. The ministry is being assisted in this endeavour by Dr. Brian Holmes, chairman of the Ontario Council of Health.

Odoardo Di Santo, whom many of you will have known in his previous role as MPP for Downsview, has been appointed director of the office of worker advisers. The functions of worker adviser, aimed at providing help to claimants in matters relating to both claims and appeals, have been removed from within the board and will operate completely independently, reporting instead to the Ministry of Labour.

The resources available to the office have been significantly expanded to better service the needs of clients. They include the establishment of a network of regional offices throughout the province. At present, consideration is being given to locating such centres in Sudbury, Thunder Bay, Ottawa, London, Windsor, Kitchener-Waterloo and Hamilton as well as Toronto. Once the new operation is off the ground and fully staffed, attention will be

directed towards the best means of servicing claimants' needs in outlying areas from those regional centres.

In parallel with the office of worker adviser, a new office of employer adviser has also been created to perform a similar range of advisory services for WCB clients in the employer community. I believe this service will be particularly welcomed by small employers, whose resources are often inadequate to permit them to acquire comparable assistance elsewhere. We have arranged for Jason Mandlowitz to be seconded from the Ministry of Industry, Trade and Technology to co-ordinate the establishment of this office. Mr. Mandlowitz is here in the audience this morning.

The ministry's steering committee has also been canvassing and examining potential appointees to the two remaining bodies, which I have not yet mentioned, namely, the board of directors of the WCB and the industrial disease standards panel. The corporate board is the key policy-making instrument within the board and, as such, it is vital that we be able to attract the very highest quality of appointees. Their role will be an important one in charting a new course for the agency in the years ahead.

The act requires that the board of directors comprise, in addition to the chairman and the vice-chairman of administration, between five and nine part-time members representative of employers, workers, professional persons and the public. Considerable progress has been made in drawing up a short list of suitable candidates. I will be in a position to announce appointments to the corporate board tomorrow.

I would now like to turn to the government's review of the further reforms required in the workers' compensation system, focusing in particular on the permanent disability pension scheme, the rehabilitation and re-employment of injured workers and the implementation of preventive measures designed to reduce the overall incidence and severity of work place accidents.

You may recollect that the first Weiler report and the government white paper that followed, recommended the adoption of a dual award scheme for determining compensation for work-place injuries involving permanent disability. The proposed scheme was, in fact, similar in basic concept to the survivors' award system eventually introduced in Bill 101.

It would have comprised two separate forms of payment, a lump sum award intended to compensate for the impact of a permanent physical

disability on an injured worker's nonworking life and a continuing payment geared to the loss of earnings occasioned by the injury. The specific proposal advanced in the white paper was that the wage-loss element in the dual compensation system would be revised periodically on the basis of regular reviews of the claimant's work status and earnings situation. No longer would there be a guaranteed lifetime pension payable to the worker in question.

The potential loss of such a pension and the implications of a regular review of earnings for both the individual concerned and the administration of the workers' compensation system became the focus of criticisms of the new proposal, at least from the workers' point of view. Subsequently, deterioration in the general economic climate and the onset of recession produced further concerns on the part of the business community. The overall cost of a compensation system based on wage loss would surely be higher in a situation of high unemployment and scarcity of jobs than in a more buoyant economic environment.

In response to these concerns, a number of possible variations on the actual wage-loss model were suggested, involving the substitution of projected wage loss or the payment of compensation in the form of two pensions: one a potentially variable wage-loss payment and the other a fixed lifetime pension based on the clinical disability itself.

Despite the controversy that eventually developed around the specific wage-loss approach advanced in the 1981 white paper, there can be little doubt that Weiler's careful analysis clearly identified the source of the fundamental problem with the current disability pension scheme, and that is its failure to address itself in a direct and consistent way to the loss of earnings associated with the injury.

The establishment of such a link between the level of compensation and earnings loss should surely be the central objective of any effective and widely acceptable workers' compensation system. It is, after all, the basis on which the courts generally assess damage awards in accident cases. The workers' compensation system is recognized to be a replacement for the tort system in worker injury situations. In return for relinquishing the right to sue for recovery of losses in such cases, the worker is guaranteed a source of compensation on a no-fault basis.

If the ability to relate compensation to lost earnings is indeed the most important test of a workers' compensation system, as I have sug-

gested it is, then the present Ontario system must be classed a conspicuous failure. In effect, it implicitly assumes a direct relationship between clinical impairment and loss of earnings. Whether or not such a relationship holds on average, it is clear that it does not hold in a multitude of individual cases. As a consequence, the link between size of pension and the earnings loss occasioned by the injury for which it is paid is often very tenuous.

This fact alone has generated a significant degree of disaffection on the part of injured workers with the entire workers' compensation system, a situation that has been retrieved hardly at all by the various devices employed in order to patch over the cracks in the pension scheme, such as the awarding of temporary supplements and the like.

Whatever one's views of a scheme based on actual wage loss—and I admit to having some serious reservations of my own on this question—it is surely beyond argument that in seeking a replacement for the current inadequate system, attention must be focused on securing a much more consistent and direct link between compensation and loss of earnings than is demonstrated at present. At the same time, it must be recognized that for an injured worker whose future earning capacity may have been irreparably damaged, stability of income is also an important objective.

These two principles—the relating of pension payments to earnings loss and the need to provide some measure of security or stability in such pension payments—must be combined in an acceptable way in any future scheme for compensating permanently disabling work-place injuries. The government's current workers' compensation review will be seeking a revised method of computing permanent disability pensions that balances these essential characteristics in an appropriate fashion.

10:40 a.m.

The Weiler report also focused on two other important aspects of the workers' compensation system, namely, rehabilitation and prevention. Neither issue was effectively addressed in Bill 101; yet each is extremely important both in safeguarding the health and physical wellbeing of Ontario's work force and in attempting to ensure a firm financial basis for the workers' compensation system.

On the latter point, while no reminders may be needed, I would simply point out that the board's unfunded liability has escalated from just over \$2 billion in 1980 to close to \$5.5 billion today on an

indexed basis, despite a relatively large increase in the assessments levied on employers in the intervening period. I do not believe that this fact of itself can be used as an excuse for failing to treat injured workers in a humane and sensitive way. On the other hand, it would be irresponsible of me to suggest that it is simply of no consequence and thus can be safely ignored when we contemplate reform of the system.

Fortunately, I believe there is a solution to this apparent conundrum, a means by which the workers' compensation system can be made more responsive to the financial needs of injured workers or their dependants and can at the same time be rendered more cost-effective than the present system.

The solution lies in effecting a dramatic improvement in our health and safety performance in the work place and in ensuring that where injuries, nevertheless, still occur, despite our efforts to prevent them, the workers who are involved are given every possible assistance to regain a place in the work force where they are physically able to do so.

Regardless of any other considerations, I should emphasize that these objectives are sufficiently important in their own right to demand much greater attention than they have been given in the past.

The route to effective prevention lies not only through the workers' compensation program, but it clearly involves, for example, more stringent administration and enforcement of the province's existing health and safety laws and, where these are found to be deficient or ineffective, the passage of more appropriate legislative measures. This program also falls within the jurisdiction of my ministry, and I intend to make sure it operates in an effective manner.

However, I believe the workers' compensation program itself has the potential to make an important additional contribution by providing appropriate financial incentives for implementation and improved observance of health and safety measures, or, conversely, by installing appropriate disincentives against lax behaviour in this regard.

Members of this committee may recollect that in the past I have expressed considerable scepticism about the merits of experience rating. While my concerns have not been entirely dispelled, I am now prepared at least to explore the matter further.

The Workers' Compensation Board has introduced experience rating in the construction and forest product industries on a voluntary basis and

has held discussions with a number of other interested industry groups. The board will be closely monitoring the impact of the new plans on corporate behaviour and performance in the health and safety field and on the incidence of accidents and work-place injuries, in order to arrive at a judgement as to the practical effectiveness of experience rating as a preventive device. I await the results with interest. If they offer encouragement, I will certainly be prepared to take any necessary legislative action to ensure the implementation of experience rating on a wider basis.

No matter how effective an accident prevention program is in place, it is inevitable, given the nature of many industrial processes, that a certain number of injuries will nevertheless occur. Thankfully, the typical industrial injury, even where it results in permanent disability, does not physically preclude the resumption of work in some capacity after a recovery and rehabilitation period. More often the difficulty lies in finding suitable employment for the worker concerned.

The solution to this problem lies, in part at least, in upgrading and devoting more resources to the board's already considerable rehabilitation efforts and in providing rights to reinstatement or re-employment with the original employer for injured workers who are able to return to work.

While a requirement of this kind may not be appropriate in all circumstances, there are many situations in which alternative employment could be and should be made available to an injured worker. I believe that where suitable work can be made available, the employer of record at the time of the accident has a moral obligation to rehire the worker concerned.

In a system in which wage loss is a guiding principle in the computation of pension entitlement, the failure to re-employ workers results in an additional financial charge to the system. Where the employer in question has refused to rehire the worker, despite being in a position to do so, I do not believe it is inappropriate to suggest that the employer should be required to bear the additional financial costs associated with his actions.

There will, of course, be circumstances in which the employer is simply not able to rehire an injured worker for a variety of reasons. In those cases, mechanisms must be found for facilitating the worker's re-employment elsewhere. The challenge is to develop a set of policies that constitute an effective mix of rehabilitation services, re-employment measures, reinstatement rights and financial incentives or disincentives

to guide employers' actions, all with the overall objective of maximizing the opportunities for injured workers who are able to do so, to participate again in a meaningful way in the active labour force.

I have given some indication of the particular aspects of the workers' compensation system that will be receiving close attention in the government's current review and, as I said, I expect to be in a position to bring forward legislative proposals to address these issues at an early date.

Mr. Chairman: Having heard from the minister, it is my hope that we can now hear from the chairman of the Workers' Compensation Board. I directed specific invitations through the Minister of Labour to have the appeals tribunal chairman and the office of the workers' adviser chairman here today as well to make presentations, if they wish. I presume that will occur this afternoon and that before then we will hear from Dr. Elgie and then from the two critics for the respective parties whenever Dr. Elgie is finished.

Dr. Elgie: Mr. Chairman, I must say that it is of great comfort for me, and I know to the minister and to other members of the committee, that you are here to protect us from the slings and arrows of outrageous fortune, as Shakespeare once said. I am not referring to you, by the way.

I do want to express my personal appreciation for the minister's remarks and I want to assure my former colleagues that my wife did not write that part of his speech; he wrote it himself. I had no input into it, did I, Bill?

Hon. Mr. Wrye: You made a few changes. You added the adjectives.

Dr. Elgie: I would also like to join with the minister as well as with my former colleagues in congratulating Lincoln Alexander on his elevation to the post of Lieutenant Governor and to express our appreciation to him for the important role he played as chairman of the Workers' Compensation Board for the past five years.

In view of your invitation, Mr. Chairman, I wonder whether I could introduce two members of the staff who are with me here. Al MacDonald is the vice-chairman of the board and Hazel McDonald is acting secretary of the corporate board. I want to assure you that they are not related at all. I wonder whether I could ask Mr. MacDonald to introduce the balance of the staff who are here today.

Mr. MacDonald: Mr. Chairman, in the front row we have Art Darnbrough, who is the executive director of rehabilitation services, and John McDonald, also unrelated, the executive

director of claims services. In the next row we have Bob Reilly, the assistant general manager, and Dr. Robert Mitchell, the executive director of medical services. Behind him is Gordon Haugh, the executive director of communications. Hiding in the back is the acting executive co-ordinator of the new review services division, Doug Cain, and beside him Richard Murzin from our communications division.

Dr. Elgie: I am pleased to come before you today on behalf of the Workers' Compensation Board. As most of you know, I have been chairman of that board now for approximately one week, and this is my first opportunity to appear before a legislative committee in my new capacity.

Some of you are in a position similar to mine. You are new to the Legislature and new to this committee; therefore, this is your first opportunity to examine the annual report of the board. Indeed, there are persons here far more qualified than I am to answer questions about the board's 1984 annual report, and you will be able to pose your questions to them during the course of the next few days.

Therefore, instead of reciting the details of the report that you have before you, I would rather direct my opening remarks to the changes taking place within Ontario's program of workers' compensation. I think it is particularly appropriate that I do so today because October 1 sees substantial changes to the board's administrative structure and practices.

Some of these changes are the result of recommendations made by Professor Paul Weiler in his report entitled *Reshaping Workers' Compensation for Ontario*. As the minister mentioned, that report was commissioned during my first tenure as Minister of Labour; so it is now a great pleasure for me to be present here to see the birth of some of those changes, which I may have played a small role in conceiving.

10:50 a.m.

That report resulted in a number of amendments to the Workers' Compensation Act. In addition to those structural and other changes that take effect today, a number of significant amendments were introduced to the act effective April 1 this year.

I would like to review the changes that have already been implemented as well as those which take effect today. I will then touch on some of the board's further objectives which will be presented to the new board of directors for their discussion and approval. Before I get too far ahead of myself, let me step back to April 1 when

a number of significant changes in the structure of workers' compensation benefits were introduced.

First, the ceiling of annual earnings covered by workers' compensation was raised to \$31,500 from the previous \$26,800. The earlier ceiling was low by the standards of other Canadian boards. Now more than 87 per cent of Ontario's workers have their full earnings covered under workers' compensation.

Second, a new basis for the calculation of workers' temporary or permanent disability payments was introduced. Prior to April 1, payments were based on 75 per cent of a worker's gross earnings. They are now calculated on 90 per cent of a worker's average net wage which takes into consideration probable income tax, Canada pension plan premiums and unemployment insurance premiums.

The third major change was for survivors of workers killed on the job or as a result of a work-related injury or disease. Survivors' awards, as the minister mentioned, now include a lump sum and a continuing benefit, both related to the age of the surviving spouse.

The new system tries to reflect the kind of living situation the family enjoyed before the worker's death. Previously, the same dollar figure was paid in every case without any regard to how much money the deceased worker earned while alive. As well, the statute now allows for surviving spouses to take advantage of the board's vocational rehabilitation and employment counselling services. In each of the approximately 50 cases referred to the vocational rehabilitation division by the claims services division since April 1, the spouse has been offered that vocational rehabilitation assistance. To date, only one surviving spouse has chosen to take advantage of that opportunity.

In analysing that, one must look at the relatively short time this provision has been in existence and the fact that these surviving spouses are still suffering from the death of a loved one. That low number probably does not come as a surprise, and I expect in due course more will take advantage of this program. If not, we should explore why that is not happening.

The fourth major change in compensation benefits concerns rehabilitation supplements for partially disabled workers. These supplements are paid by the board to disabled workers in addition to their pensions when their earning capacity is significantly lower than usual, considering the nature and degree of their injury. The board can now take into account the effects of

inflation on a worker's earnings when computing supplementary benefits. To date, 547 workers have had such adjustments made to their benefits.

Further, workers in receipt of CPP benefits are no longer prevented from receiving supplements from the board as well. Approximately 300 workers who were receiving temporary partial disability benefits prior to April 1 have had their benefits adjusted to reflect this new provision.

Moreover, older workers unable to find jobs are now eligible for supplements from the board equal to the level of the old age security pension. These supplements can continue until the worker either returns to work or is eligible for old age security benefits. To the end of August 1985, 230 such supplements have been issued.

In addition to all these changes in the structure and calculation of benefits that came into effect on April 1, domestic workers became eligible for coverage by the board for the first time. Domestic workers more than 24 hours a week for one employer are automatically covered and their employers must pay assessments to the board. A domestic working fewer than the minimum number of hours for one employer may qualify as an independent operator and receive coverage as well.

To date, we have received only about 900 requests for coverage from employers of domestics, and there have been 10 claims with respect to domestic accidents. I have already asked members of the board to make inquiries about why the requests for coverage from employers have not been more extensive than that.

The last change under the April 1 amendments I will talk about concerns how workers are compensated on the day their injury happens or their illness is discovered. Previously, compensation was computed from the day following the time of an accident or a disability. But this does not take into account the wages lost on the day the worker was actually hurt. To rectify this situation, the act now requires employers to pay an injured worker's wages and benefits for the day the injury occurred in cases where compensation is payable for loss of earnings.

Because these amendments represent substantial changes to the administration of the compensation program, it was necessary to undertake an extensive communications effort to inform employers and workers of these changes. In this regard, three paid television commercials were aired over 25 weeks. One was specifically aimed at employers, telling them they now had to pay benefits for the day of the accident. The others

informed people of the changes and encouraged them to get more information from their local office.

There was a tie-in to these commercials in the print media. Newspaper advertising, in particular, contained a toll-free 800 telephone number and a coupon to clip out and send to the board for more information.

Further, two public service announcements were produced and these received extensive free air time. One dealt with the change in the calculation of benefits and the other with the registration of employers of domestics. This was supported by a special pamphlet which enjoyed wide distribution. By the end of August, the board had received close to 12,000 requests for information and sent out some 55,000 pieces of literature.

While the April 1 amendments centred on changes in benefits, the amendments which take place today relate primarily to changes in the administration and structure of the system of workers' compensation in Ontario.

Effective today, the overall direction of the board is provided, as the minister said, by a new board of directors, which replaces the previous corporate board. The new board, consisting of a full-time chairman and vice-chairman and nine part-time directors, will not only represent the various stakeholders in the area of workers' compensation but will also provide feedback to those same stakeholders on the WCB's policies, actions and major concerns.

It is also part of the mandate of the new board to advise the government in shaping social policy in the area of workers' compensation. In the past, decisions and policymaking were internal procedures within the board. The new board of directors ensures that employer and worker groups, professionals and the general public will participate directly in establishing policies and procedures for workers' compensation.

As of today, a tripartite appeals tribunal, fully independent of the board, is also established. Reporting directly to the Ministry of Labour, this tribunal is the final level of appeal under the Workers' Compensation Act. To assist in its deliberations, that tribunal will be able to call upon independent medical experts who will be chosen from a list of medical practitioners appointed by the Lieutenant Governor in Council. This is meant to preserve the tribunal's impartiality by separating the board's own medical services branch from the final stage of medical assessment.

As a result of the creation of the new appeals tribunal, the review structure within the board has of necessity been changed. The operating divisions will make initial decisions and may review their decisions at the request of the worker or employer. If the decision is still not satisfactory, the matter will be referred to the review services division, which will now be the final level of appeal within the board.

Along with the creation of these new bodies, the earlier office of the worker adviser is expanded and made directly responsible to the Ministry of Labour. In addition, a new office to advise employers has been created, and this office too will report to the Ministry of Labour. With this change the government has recognized the need to offer advisory services independent of the board. Workers unsure of themselves and how to deal with the board have in the past found the worker advisory office to be of help.

Employers, particularly small business people, can often be unfamiliar with the board's practices and procedures too. Now employers will have an office of the employer adviser where they can seek practical advice and assistance.

11 a.m.

The industrial disease standards panel, a further independent body, is established, effective today, to provide additional expertise in developing criteria for compensating workers suffering from industrial diseases. Previously, the board itself devised these criteria and developed guidelines for adjudication. Now the board will be able to draw upon the expertise of independent outside representatives from the technical, scientific and professional communities.

During the Dupré royal commission proceedings the board itself called for the creation of this panel, and we now welcome the assistance it will provide in this complex area. Indeed, we welcome all these new bodies; we offer them our complete co-operation and look forward to working with them from today on.

Before I leave the subject of the October 1 amendments, I should add that the legislation now provides that services under the Workers' Compensation Act shall, where appropriate, be made available in the French language.

A French translation bureau has been established, and the translation of the more than 900 forms used in communicating with the public is nearing completion. Currently, 582 forms are available in the French language and the remainder should be available by the end of the year. In addition, changes have been made in the

computer systems area to allow the printing of bilingual or French messages where in the past only English messages appeared.

As well, the board has in place new administrative policies on the French-language testing of staff, on the identification of positions requiring bilingual skills and on language training. As a result, 144 staff positions have been identified as requiring bilingual skills, and the incumbents of most of these positions have had their French-language capability assessed. Francophones are now able to communicate with the board in French and to receive service in French on demand.

Having examined the past and present amendments to the statute governing the way the board carries on its mandate, I would like to take a few moments now to discuss briefly some—and I emphasize “some”—of the board's objectives for the future which will be presented to the new board of directors for their discussion and approval early on.

First, concerning regionalization, we have completed our analysis of our regional offices in London and Sudbury and we are satisfied with the advantages in service that regionalization provides. Therefore, an extension of that regionalization program will be recommended to the board of directors. In fact, one of the first things the board will be asked to look at is a specific recommendation on new regional offices.

Second, during the past 18 months the board has taken a significant step forward to becoming a state-of-the-art user of modern computer technology. By upgrading and expanding the board's computer systems and technology we will go a long way towards controlling the board's administrative costs and improving the efficiency of our service to the working men and women of the province through improved and speedier access to claims files. The WCB intends to complete its migration to an up-to-date management information technology and through ongoing management review will ensure that tangible benefits are obtained from the investments made.

A third objective concerns the stabilization and reduction of the board's unfunded liability. The annual report you have before you shows the board's unfunded liability standing at \$2.7 billion. A full provision for future cost-of-living increases would add a further \$2.7 billion.

I would like to say at this time that this potential \$5.4-billion unfunded liability has no detrimental effect on the board's planning for benefit increases. Indeed, with sensible financial

management and the co-operation of employers, we are confident that the unfunded liability will be stabilized at an optimum level in the near future.

A fourth objective centres on the permanent disability rating schedule, sometimes known in unflattering terms as the meat chart. We have reviewed the current schedule and we are now seeking the opinions of Professor Weiler and Professor John Burton of Cornell University, a world-recognized authority on permanent disability evaluation. We will be presenting the results of this review to the board of directors.

I wish to say two things about this. We have made a commitment in writing to allow injured workers' groups to have input into this discussion before the matter is referred to the board and we intend to live up to that commitment.

As the minister can appreciate, the schedule will naturally have to be consistent with any legislated changes that may be in the making with respect to permanent disability awards. However, with that in mind, it is our expectation that the new permanent disability rating schedule will go beyond clinical disability per se and take into account pain and suffering and the loss of enjoyment of life.

I realize that in discussing future objectives together with past and current amendments to the statute, I have covered a lot of ground. However, if there are any questions on these matters or any questions relating to the board's 1984 annual report, I am happy to put myself and my colleagues at your disposal.

Mr. Chairman: Thank you, Dr. Elgie. I thought I would turn the next part over to the critics. I did notice the minister twitching when you referred to specific locations for the new regional offices of the WCB.

Dr. Elgie: You want two of them in Sudbury. Is that your goal?

Mr. Chairman: Two in Sudbury, yes.

The critic for the official opposition, Mr. Gordon.

Mr. Gordon: It is a pleasure to be here as the critic of my party on behalf of the Ministry of Labour. I listened very carefully to what the minister had to say and I look forward to some refreshing and positive steps to be taken under his guidance. I am prepared to give him the benefit of the doubt at this time.

I must say to the chairman of the WCB, Dr. Elgie, I have to concur that many of the progressive steps that have been taken in Bill 101 and other steps taken in the past years concerning improvements for workers in this province came

about as the result of initiatives on your part. Those initiatives were, as you would be the first to agree, largely sparked by the plight of the workers and the proposals brought to you that created these changes, and proposals will be brought to the new minister and to this committee in the future.

After listening to some of the positive steps that are going to be put in place as of today as a result of Bill 101, some people might have a feeling that all is well in the world. I have to tell you all is not well.

Sudbury is situated at the heart of the forest and mining industries. These are high-risk occupations that have claimed more than their share of injured workers. Just to bring things back down to earth, I would like to refer to some of the instances that have occurred within the Sudbury region. They are instances that have had a real impact on the attitudes of injured workers and on my attitude towards the WCB.

I have some very real concerns, and over the coming weeks I will have some very specific questions about the functioning of the board, about its goals and its purpose, and whether it is fulfilling that purpose to the benefit of those it is meant to serve, the injured workers of this province.

As you are well aware, there are frustrations on the part of workers with the WCB process. In my own case, some of those frustrations have begun to outweigh some of the favourable impressions I have had from time to time of the capacity of the WCB to resolve problems. I read your annual report with interest. The year of 1984 is referred to as a year of preparation for the many changes brought about by Bill 101.

11:10 a.m.

I read that the board has kept abreast of proposed amendments and has used the intervening period to prepare the internal mechanisms necessary to ease transition to a new system in 1985. It is written, "By means of internal task forces and committees...the WCB has readied itself for a smooth transition, without disruption of service or decrease in momentum."

Momentum: that is a word I think both my colleague the member for Sudbury East (Mr. Martel) and I would have to question. The word "momentum" really sounds as if things are moving. It is almost like the milk ad you see on the billboards. Almost before you know it, it is going to go right off the edge of the billboard. That is not how things are really happening, so I really have to question the word "momentum." I would not go so far as to say that if there were

more momentum there would be no momentum, I would not make a radical statement like that to you people, but I have to question the word "momentum."

Right now I have 35 cases on my desk. It is a wonder I have time to look after some of the other matters that I as an MPP am expected to be cognizant of and to spend my time on. I want to talk about those cases in terms of WCB momentum, in terms of the exasperating, frustrating, and at times disheartening, delays. I use the word "disheartening" because I believe the hardships caused to already distraught and burdened individuals by unnecessary delays and inefficiencies in WCB processing is in certain instances a human tragedy.

I have seen workers come into my office who are suffering real pain. They have been suffering pain for some time and have found their cases are being delayed and delayed and delayed. I have written letter after letter to try to extricate files, to try to get a case moving, and I run into some of the very same roadblocks those workers run into.

Sometimes I have asked myself if this is what is happening to me, an elected member of the Legislature of Ontario, what would happen if these people were completely on their own, because it seems that at times the power we are supposed to have as elected members is practically nonexistent. No wonder we rail from time to time and we get very loud in our declarations about the problems of the system.

One thing we must always be mindful of is that we are dealing here with people who have experienced severe trauma in their lives—physical, emotional and financial—and the board's efficiency or lack of it determines whether these workers' hardships are aggravated further by the slow and tedious wheels of bureaucracy or whether the suffering of these workers and their families is relieved.

If, as in some of these 35 cases, we want to appeal a decision of the board, until very recently it has taken up to 10 weeks, and at the very least four weeks, before we could even begin an investigation of the case. As you know, a large part of that was due to the fact it took that long to get the guy's file photocopied and out of Toronto.

You might say: "We got that problem licked, Gordon. You do not have to worry about that any more. Neither does the worker, because you have a regional office." I have news for you. At the present time we are having some very real problems in getting files photocopied in Sudbury. There are a number of instances in which it

took as long to get it photocopied in Sudbury as it was taking to get it photocopied out of Toronto. You have to ask yourself what is going on.

I do not want to say the steps being taken under Bill 101 are not going to provide some very real advances, but there is a fossilization in the bureaucracy; it is hidebound. You have to start looking at the system and get away from being so enamoured with the system. I read this report and I have to tell you it is a beautiful report. As a matter of fact—

Mr. Martel: It was so interesting you lay in bed reading it last night.

Mr. Gordon: As a matter of fact I did read it last night. It is the same situation as the chairman is in; I found out about 10 days ago I was the critic. I have been doing a lot of reading. Fortunately, coming from a labour community, I already know a great deal about what has been going on.

Let us talk about some of these grass-roots problems I have been alluding to, seen from the point of view of a member. Perhaps it will give the board an idea of some of the frustrations experienced by the workers.

In Sudbury it is taking three to four months to get an appeal date set at the adjudication level. If you need more people or if there are inefficiencies, let us get on with it and clean it up. That is why I would have to concur with what the member for Sudbury East said a few minutes ago about having a very definite report at the end of these committee meetings and making some very real recommendations.

In one incident—I will not mention the gentleman's name but I would be pleased to give further details to the WCB later—we wrote in January 1985 for an appeal. In my view, this was an urgent case. The injured worker was very upset, emotionally distraught, and the Sudbury regional office was aware of the severe mitigating factors that dictated a quick appeal, but it was not until seven months after the request, July 18, 1985, that this appeal was finally heard.

This man had to sit in the WCB offices in Sudbury with his children last Christmas, and only by refusing to leave was he given the kind of attention he should have received long ago. He refused to leave until, finally, the medical adviser reinstated his temporary total benefits because, "It was obvious that this man was still severely disabled." Nevertheless, this worker still had to carry forward with an appeal that took seven months to be heard.

I cannot believe this is the way we are going to treat workers in the province; and that despite the

fact the member for Sudbury wrote, called, cajoled, yelled—did everything in his so-called power—and still it took seven months. Is it any wonder we get frustrated and have so little belief in the system?

I have another constituent, a man who is getting on in years, who came to me for a pension reassessment. He told me he immigrated to this country and worked hard all his life. He was injured, had a small pension and so forth. He said it seemed everyone else could have something, but when he goes he is turned down.

First, it took him four months to see his own specialist. That tells you something about another system. Now we find it will take another six months before he can see the board's doctor to assess his entitlement to higher pension benefits. There is a possibility this gentleman, being the age he is, will not be here in six months. The point is, it should not take six months.

11:20 a.m.

There seems to be inefficiency. The woman who works for me in Sudbury says, "It just seems that some, not all, of the Workers' Compensation Board employees lack push." They do not seem to get up and get going.

Another individual came to my office. We wanted to help him. He asked for our help, so we called the Sudbury regional office. Because we still rely on Toronto for certain functions this man's file had to be mailed to Toronto; and it was. In fact, the file was mailed three times to Toronto. Three times it was sent back because a clerk in Toronto claimed some document was missing. Three times the file was returned, clearly pointing out the fact the document was right there in the file; and it was.

This drama started in early July, and to date, October 1, the thing is still unresolved. Four months have passed and meanwhile the worker is without one red cent.

I know the members sitting here have workers' compensation cases and they are aware of the problems, but these are the kinds of things that make me ask questions. Do we have an empathetic, understanding WCB, or is it a WCB that sees the worker as the enemy? "Yes, we have to pay him this insurance because that is the law, that is what the act says, depending upon his injury, if he can prove it and so forth; but he is really some kind of person trying to rip off the system." Is that the way things are looked at in the WCB?

On more than one occasion we have had instances where we have talked to the office in Sudbury. Despite the high-tech telephones and

instrumentation we have between Toronto and Sudbury, they say: "We just cannot get through on the lines. We have been trying and trying and we cannot get through. Maybe if you tried, you would have better luck." I understand some WCB workers are interested in the case at hand, but they are frustrated and they are having difficulties, and so are we. I think you had better take a look at some of that high-tech business you are getting into and make sure it is not just all flim-flam.

In Sudbury not too long ago I was talking to a person in the clerk's department. They are working on word processors. I asked: "How are things going? I guess this has really improved things for you and you can get a lot more done." This person said: "We are still working out the bugs. Things are not moving quite as fast as we thought they were going to." I can remember when those word processors were put in. They were put in about 1979. Are we going to be in the same situation with the WCB? I will read your reports later on, as we get into these hearings, I will not read them now.

One has to ask, are there no supervisors the staff can go to, and are encouraged to go to, to iron out legitimate emergencies? When we talk to someone in Sudbury, I have to tell you I believe the person we are talking to is a sincere individual, trying to do his or her work, in most instances—there are always going to be exceptions—but it seems there should be somebody who is seen to be a facilitator in those offices, somebody who can cut through the red tape, cut through the various steps that need to be taken and move things along a little faster.

Talking about MPPs, I do not think we cry wolf all the time. We are politicians and we realize that if we always crying wolf no one is going to believe us. The workers we are representing are not going to believe us, the WCB is not going to believe us, and the public is not going to believe us. Certain cases require facilitation and it is lacking. I would like you to look at that.

How secure does all this make the injured worker feel? Does he feel his affairs are being dealt with in an empathetic or just manner? He is already hurting. I can recall going to the WCB offices in Sudbury—I know it would be the same here—and I saw workers waiting to see counsellors or whoever it happened to be. I am a politician and a politician has to be sensitive to people's feelings. One has to be aware of their auras and of the mood coming from them. It made me feel bad because there was an air of

defeat in that room among the people waiting to see their counsellors.

It is easy to see how that can happen. When you are healthy, everything seems fine. Your family life is better. You may be looking forward to advancement or your next fishing trip. You look forward to a lot of things. Mealtime is a happy time and so forth. However, when you are injured, it seems you become powerless all of a sudden, depending on the degree of injury, how long you have been injured and the frustrations you have been put through as an injured person. You feel as though somebody has taken away from you the power you had as an individual in this society. You start to get bounced around. Your confidence really begins to ebb and flow away like the sands of time.

That is something all of us, as politicians and as people who work for the WCB, have to be aware of. They are human beings. They are people who are troubled, who are worried and who need help. They need help whether their appeals are going to be granted or not. In certain instances they are not going to get as much as they should get or what they think they should get. However, the way you treat them is going to have a lot to do with how they feel about themselves in the future when they are looking for jobs and when they are looking to rehabilitate themselves. That is a big area we have to work on, one I do not see addressed in this report.

I have to say we have made some strides. We have partial decentralization, and two examples are Sudbury and London. I see there is talk of further decentralization. I think Dr. Elgie mentioned that. However, we still have some very major functions taking place in Toronto. I cannot believe the people working for the WCB in Sudbury do not care about working people, but I do believe the WCB is too tied up in the snarls of bureaucracy, and that all too often people living or working outside the golden city or the Golden Horseshoe find their hands are tied and they are unable to serve the workers in a way they deserve to be served.

I understand the rationalization for partial rather than total decentralization of services. As it is said, one can achieve continuity and a standard of adjudication throughout the province. However, what we lose and what the workers are forced to suffer far outweigh any importance of the advantages of a supposed continuity of standard.

There is nothing like face-to-face communication to force accountability. We see that here. Our new chairman sees that. Before he was

sitting there; now he is chairman and we are holding him accountable for what goes on. Do not forget that.

11:30 a.m.

If these other functions such as pensions, claim reviews, processing of appeals and payments were transferred to the regional offices, I believe we would see more sensitive and humane treatment of our injured workers and speedier processing of their claims. That is something that has been called for before by members from the Sudbury region, because we do see that going on there.

This brings me to another key issue, an attitudinal issue. I read in the annual report that your information systems development and processing division has as its purpose to make you a state-of-the-art user of modern computer technology that will, in turn, improve the efficiency of our service to the working men and women of this province, and that it will help in the timing with which you serve injured workers and employers.

This is fine PR talk. I am sure someone was paid a goodly dollar to write that up. To be sure I am not against technology, but we are faced with a much more fundamental problem that technology cannot and does not address, that is, as I have been elucidating, the human element, an empathy and sensitivity to the plight of the man or woman who appears before you at a hearing or an appeal.

I have personally attended hearings and have had the very clear and distinct impression that the minds of the adjudicators and/or the appeal board were already made up. The hearing was for them a perfunctory, routine exercise to be gone through as quickly as possible. A claimant is made to feel he is just another person trying to rip off the system. The attitude in some of those hearings that I detected was one of impatience, condescension and hostility.

If I, as one who is not in a vulnerable position before the board, feels this, what, pray tell, does the claimant feel? As I said, I am not against technology or technological advances. I commend the board's progress in this regard, but I believe you have to show tangible signs that you are into more than just high tech, that you recognize the very real anguish and problems these workers are facing.

I recently appealed a decision in which the board denied a sightless, injured worker the right to a talking computer. He came to me after exhausting all avenues, after having tirelessly provided evidence that this high-tech talking

computer would ensure he could function in his speciality and be gainfully and independently employed for years to come. As a matter of fact, with his computer he could be competitive with his sighted peers. It was quite obvious.

I remember being at the appeal board hearing here in Toronto and, of course, one of the things you have to do at these board hearings is be cool. You might get feeling angry about what is happening, but if you do you might blow the worker's case away. You will get those appeal guys really mad. If they get really mad, then the worker is gone. You have to make sure your feelings do not get to the fore.

I can remember this one particular appeal board member driving home the point through his questioning time and time again: "But we did retrain you, did we not? We did spend a lot of money seeing you could carry on." And the person says, "Yes, master; sure, master; yes, sahib." I felt as if he was being treated like some kind of a coolie, to use a term that is no longer appropriate.

Fortunately, after a great deal of work, we did win that appeal. We were told we had broken new ground. While that is great to know on one level, it is also most distressing. Was I really breaking new ground? Is this not a world where technology can put many of our disabled on an even footing with their unimpaired peers?

It is time the board reconsidered its attitude towards technology. Other provincial agencies are almost routinely incorporating funding for high technology for disabled people. You have to get beyond the experimentation stage and start providing these people with the high-tech prostheses and computers or whatever it is they need. You can do it. This is a responsibility that in 1985 is long overdue.

Another question I have to ask myself is, why do I have 35 cases on my desk? Are there not worker advisers out there?

As you have been told before, and no doubt the minister has said the same thing, because the so-called workers' advisers are hired by the Workers' Compensation Board to advise and help the workers, they are not perceived by the injured workers as anything more than cohorts of the system serving the interests of the board and most certainly not the workers' interests.

Now, through Bill 101, these advisers are responsible to the Minister of Labour, not the WCB. However, my personal view is that there is still not enough distance. It seems improper, does it not, to have the same minister responsible for both the WCB—I know it is at arm's

length—and for an office whose mandate should be to advocate for injured workers affected by adverse decisions of the WCB?

I want to go on record as supporting further changes in this office. I recommend that the Ministry of the Attorney General be made responsible for the office of worker advisers. I do not know whether that is something the minister would be in favour of or not. It is hard, once you are a minister, to give up some of your new toys. We will see just how playful this minister really is. Is this going to be toy time or is it going to be worker time? I will be looking forward to that recommendation coming out of his office.

Under this ministry there already exist knowledgeable injured workers' advocates in the community clinic system. This is a very important issue. The worker himself must perceive and trust the independence of this office. Only if a sound rapport is developed with the client will the adviser be perceived to be a strong advocate for the claimant.

If this is not done, we will simply have established another mistrusted step in the board's bureaucratic ladder and our disfranchised constituents will once again have to turn to their members. I will continue to have 35 or more cases on my desk at any given time.

There is another point. I am pleased the industrial diseases standards panel is now being established to provide expert advice and criteria for compensating workers. I note its mandate is extensive and, in particular, that the panel was established to create, develop and revise criteria for the evaluation of claims. This is a step in the right direction.

However, there is one essential tenet which must be in place, a focus heretofore absent. It has been the rule that a claimant or his or her widow has stood before the board, a timorous voice of one trying to prove illness came from the work place. Industry has always had the legal, medical and technical resources to back up its position. The worker with only limited means, and often a life-threatening disease, has stood alone. I would insist that this panel in setting its criteria be empowered to force industry to prove it has acted in strict adherence to safety standards.

11:40 a.m.

If the minister would like to get some insight into the kinds of problems that have resulted from the worker being the one who has to prove it all, I would suggest he talk to Jean Gagnon in Sudbury, who successfully fought to obtain benefits for the survivors of the workers who died as a result of cancer from exposure in a sintering

plant at Inco. The benefit of the doubt must fall to the individual. Only with this change of focus can we ensure fairness and justice in industrial disease claims.

I have one last complaint, that is for today. It is time the Workers' Compensation Board recognized the needs of people in the northeast who require specialized assessment and therapy. About 25 per cent of those on the active case load of the Sudbury regional WCB office find they must undergo treatment and assessment at Downsview. In 1984, that represented 765 individuals referred to the hospital and rehabilitation centre by the Sudbury regional office. Statistics for the rest of northern Ontario are unavailable.

I would like to ask, by the way, that those statistics be made available to this committee, that is the statistics for all of northeastern Ontario related to those coming to Downsview. Statistics have been unavailable to us for the rest of northern Ontario because the case load is carried directly by the WCB in Toronto. If numbers were available, the figure would no doubt be impressive.

The workers involved are already coping with trauma and pain, struggling to deal with the prospect of changing occupations. They are faced with re-examining their role in their families and their communities. This becomes one more time of isolation in an impersonal world without benefit of family or community support. The average stay in the hospital, as you well know, is two to three weeks. I believe the WCB must give serious consideration to a hospital and rehabilitation centre in Sudbury to serve northeastern Ontario.

As you are aware, Sudbury is fast becoming the medical referral centre for the northeast. We have four modern hospitals and the specialists required to staff them. We have Laurentian University, which has a physical education department which could work in conjunction with those hospitals.

It is time we moved in that direction. We have also had improvements in transportation links to other northern areas. We are situated at the heart of the heavy industry of the north, both forestry and mining, which are proven high-risk occupations. We are not suggesting that Sudbury handle the highly specialized rehabilitative services of the Downsview hospital, but a branch operation could and should be established in our community for assessment and therapy.

These are but a few of my concerns. This committee and this board face some very real

challenges. We have addressed some of them in Bill 101. There remains much more to be done.

Mr. Martel: I will make my presentation in two parts, one of which some of you might consider a rant. The other one has been prepared by research staff and will be somewhat toned down. Maybe it is an exercise in trying to get rid of one's frustrations; I am not certain.

I am the seventh longest-serving member in the Legislature. After 18 years, it is probably worse dealing with the Workers' Compensation Board today for working people than it has ever been. Eighteen years ago we had half an assistant each. Now I have two in my riding office who deal with workers' compensation primarily. We have a new minister now, and maybe that is going to change things, although I worry about this fellow Wrye.

Dr. Elgie: You said that about me.

Mr. Martel: He promised me we would have a little investigation into the number of cases the groups in Sudbury deal with. Unlike my friend the member for Sudbury (Mr. Gordon), I have 250 active files. I am not sure when I was hired and paid by the Workers' Compensation Board to look after injured workers. I really thought that was the function of the Workers' Compensation Board.

That has not occurred, so I worry about my friend the minister. I was delighted when he mentioned indexing this morning, but I cannot understand why he did not accept our amendment in July. We could have agreed to use the consumer price index. I have to say that the big two who spoke on that occasion both opposed indexing at that time, although they agreed with it in principle. I get a little worried.

The other thing I raised during that debate was about how much money the board had already collected or was collecting in assessment for indexation. The minister indicated there might be some of that going on, but he was not certain. Perhaps we will find out in the next two weeks before we finish.

We have a new chairman, too. I hope he will be able to dictate his own timetable so that we can get our annual fishing trip in next year. That is paramount.

Dr. Elgie: You really know how to hurt a guy.

Mr. Martel: My friend Odoardo Di Santo is going to be helping the injured workers. I agree with Mr. Gordon; however, last year his colleagues did not agree that there should be one. He was reading Bill Wrye's speeches. That is why I moved a motion on indexing. I was reading

Bill Wrye's speeches and he did not do it; maybe he will this fall.

Before we are done, I hope Ron Ellis and Odoardo Di Santo will be before the committee so we can get from them what they perceive. They are going to have to sort out some of the problems that arise and why most of us are so frustrated. That includes Dr. Daniel Hill, whom I will quote in a little while.

We have the new system of appeals with Mr. Ellis, and that has a lot of people very worried. I had an opportunity to meet Mr. Ellis for a considerable period of time one day in August. I want to hear Mr. Ellis. There is a fear it is going to become too legalistic. That concern is coming through over and over again. One thing we cannot let happen is to have it become a place for lawyers to have fun. If that occurred, it would be a disaster for working people and for those who represent the injured workers of Ontario. That must never be allowed to occur.

The last time I spoke at length in the WCB estimates was in 1980. I presented a paper then that dealt with rehabilitation. We said rehabilitation services were insufficient. We indicated that. According to the study I had done by a university student, 14 out of 20 workers we followed carefully over a period of years still were not back at work. We talked about cheques being discontinued. We talked about problems within families, about what happens to marriages when workers are injured and about what happens between various members of a family.

11:50 a.m.

Looking back to May 22, 1980, I find nothing has changed. Before the day is over, I suppose I will insult a few people—not deliberately. Unfortunately, I have had it up to here after 18 years of dealing on behalf of injured workers.

There are some things that have to happen, but I am darned concerned that they will not happen. The first thing is that we have to have an attitudinal change. I will repeat myself as I go along on a number of occasions, but I am now convinced there is an effort to cut people off. I am going to bring into play before I am done 45 cases that we have won on appeal since the fall of 1983. The only thing I am going to outline is the reason for their initial rejection.

I am talking about 45 appeals. That is not my job. If I can do it with one staff member, I question why the board cannot. On a normal day it has how many thousands of employees? If we could find the material to change those decisions, why could the board not find it to make a proper initial adjudication? Ron Ellis and Odoardo Di

Santo will be swamped unless the level of adjudication becomes far more competent than it is currently.

It is a disaster area; it is a minefield. You cannot get at it because the rejections are so convoluted. There is no consistency. After 18 years around this Legislature listening to the same complaints, it is as if we had never opened our mouths about these problems. Attitude is part of it.

I would like to be a fly on the wall to hear what is being taught to claims adjudicators. I really would. My perception is that if it is a straight broken leg or broken arm, the board has to pay, but if it is complicated, get him or her out. In fact, one of the new board policies for Downsview is that if the worker has been off for six months there is not much sense hurrying to get him into Downsview because the rehabilitation success rate is not very good. I have that in a letter so people cannot say that is not the case.

They say: "We will take a three-month case. We might be successful with that. But we had better dump a six-month case. Do not even take it to Downsview because the success rate might not be very high." The very group that is the most vulnerable is the one they exclude. I think I sent that to the Minister of Labour. He is behind in his correspondence, I am told. I hope the new chairman will start to develop, and I know he has the proper attitude himself, an attitude that is beneficial to workers.

The chairman of this committee and I were out in Saskatchewan a couple of years ago. We asked the then Minister of Labour how many cases had come across his desk in the previous year from his constituents. He had one. In one year he had one. I get one every day. As I said, I think part of it is attitude. I hope the new chairman can instil a new attitude. I have heard my friend from Sudbury say the same thing.

The working people of Ontario who got hurt are not malingerers. They are not out to clip the system. It is the attitude of the people at the board towards some of those workers. I remember telling a story a number of years ago about Dr. Clarke, whom the new chairman of the board knows quite well. He is off in Saudia Arabia right now setting up a neurology department.

Dr. Elgie: He did it.

Mr. Martel: I remember him telling me about his frustrations when he went up to the WCB with a T-shirt on and did not identify himself. They would not even talk to him. Once he identified himself as Dr. Clarke, neurosurgeon, neurologist, by God, he said he got the royal treatment. It

is an indication of what goes on if you are an injured worker. If you do not believe me, I suggest you talk to Dr. Clarke. He will tell you exactly the same thing.

There is an attitude problem towards doctors by the compensation board. If the doctor is too good with his patients, then he is put on a hit list, particularly if he is a general practitioner. I know this. I am not going to tell you who told me in Sudbury, but they have a hit list. If a certain doctor is too good, they insist that doctor has to submit evidence from a specialist to substantiate the diagnosis. I can tell you some of the doctors in Sudbury who are on that list. I can tell you of a neurosurgeon who was on the list. He has now left, Dr. Sutherland. He was too good to his patients.

My last seven appeals just prior to his leaving were all in Toronto and all involved cases of his. I was told, "He is too lenient and too lax, so we do not trust him as much as we should." Can you imagine that? Can you imagine the attitude that prevails when there is a hit list of doctors in Sudbury? It is getting so bad in Sudbury that doctors are opting out and refusing to take compensation cases. The notices are on the wall. They get frustrated dealing with the compensation board; and I understand their pay is somewhat higher than the Ontario health insurance plan rate, about 115 per cent or something like that.

But the doctors will not take these cases. They do not want them because of the agony, because of the paper work, because of the stupidity. If you cannot believe the family physician—maybe that is why when my colleague, now the chairman, and I met with Lincoln Alexander a couple of years ago we said: "You have to stop this nonsense of those crazy compensation board doctors cutting workers off without even seeing them. You get a piece of paper and somebody looks at it in Toronto and says, 'It is time he went back to work,' and you cut him off."

Who in hell has got a right without even seeing a man to cut him off benefits and leave him hanging when the family physician says, "No, he is not ready to go back to work"? There really is something insane about a system that does that. It deprives a man of his income when his own doctor tells him he is not ready to go back to work, but some board doctor here in Toronto says: "He has been off long enough. It usually takes eight weeks for this sort of thing, or 10 weeks." Bingo, he is off.

Then we start the appeal system that Mr. Gordon talks about. Four months to get the file

and three more months to get the hearing, which is seven or eight months. Yet you wonder why some of those workers have difficulty getting back into the mainstream. This has all been said before, by the way. It is nothing new. It is as if the board does not hear a thing. It is a world unto itself.

I am going to come back to some of these points. The primary level of adjudication is a disaster. I am going to give you some examples in a few moments, primarily with pensions to start with, but I am going to come back to initial claims and rehabilitation because that is where those ridiculous decisions are made.

Three areas I have mentioned so far have to be reviewed: attitude towards the worker, attitude towards the doctors who are looking after those workers and the primary level of adjudication. Most of us are involved in that primary level of adjudication, which in my belief is so convoluted.

12 noon

If I could at least put my finger on what they are doing wrong it would not be bad, but the only thing that is consistent is the inconsistency. It is all over the map. I know the minister dealt with the same problems when he was a back-bencher. I know from his speeches, some of which I have read, the frustration he experienced.

I know from previous years when my colleagues made presentations here that the problem existed then. I said to Ellis: "If you cannot get a handle on it, you will never be able to handle the number of claims that are going to come before you, unless the minister can get you a real bundle of money just to hire enough people. It is the same with the injured workers' consultants. You are going to need them by the bagful."

I would like the board to tell me how many of us are involved in helping injured workers in Ontario. In Sudbury you have Mr. Gordon and his staff, Mr. Laughren and his staff and my staff totally committed to nothing else. We do not have time to do other case work in Sudbury. It is all done out of here.

You have the United Steelworkers with Bernie Young and his assistant—sometimes I have seen the United Steelworkers bring in two extra people—the Sudbury Mine, Mill and Smelter Workers Union, the Canadian Union of Public Employees and, of course, the community legal clinics. How many people in Ontario intervene to protect injured workers? Do you have any idea at all?

Maybe we should make a list. Maybe the WCB should start paying the salaries of those

workers. I do not think it is up to a union to have to hire full-time people to look after nothing but compensation. I can see us all taking the odd case that becomes very complicated and doing a little work, but I do not think my riding office should have two people doing nothing but compensation.

We have said these things before. You might as well talk to a bloody wall. It does not get any better. How many? I am sure the board must have a list somewhere. They know all the contacts—I did not mention the Ontario Public Service Employees Union. Every union is in the same position. Are we the safety net for the board?

When the board screws up on all the claims—I read the reports of how many claims are handled successfully and the first time around, and I do not believe them. I do not believe them because of my own case load. It is too easy for the board to say it is so successful. If you were, you would not have the network out there of people trying to resolve problems on behalf of injured workers.

I met with representatives from 22 groups last Monday on two weeks' notice to us chat about this. They are all the same. It does not matter whether you are in Sudbury, Chatham, London, Ottawa or Thunder Bay, it is the same. Maybe somebody this time will give us an explanation of what is going on. We are entitled to it. That is why we are going to make some recommendations. I am tired of working for the WCB and I am tired of my two staff doing nothing but compensation cases. That is the WCB's responsibility, not ours, and it is time it took that responsibility seriously.

It is not up to the unions to hire people to protect injured workers. The network out there is growing every day. The legal clinics all over the province have to put limits on the number of cases they can handle, because they cannot cope. As members of the Legislature, it is unfortunate we cannot say no to the number of cases we are handling.

There are seven or eight points you are going to have to look at, but I am only going to deal with five now. Another one is competent medical personnel with the appropriate specialties. Tell me how you can possibly have a general practitioner—and I am not trying to slight doctors—overruling specialists in such fields as silicosis, cancer and so on. It goes on all the time.

The people in those jobs do not have the background or the training, but they make those decisions all the time. They make decisions about white-hand syndrome; I give white-hand syndrome just as an example. If you try to get this

board to change its policies—I understand the minister is doing something about it.

For years, some of the leading specialists in white-hand syndrome in Ontario said to me: "You can get it in three months now. We know of cases in England in three months." Board policy is that you have to work in an area for two years prior to filing a claim and you have to be working with vibratory tools. Specialists say to me: "No, that is crazy. The destruction in their hands was long before the blood vessels."

That expert evidence is known to be there, but the board has a policy that you have to be there for two years. It does not matter if the man's hands are so white once he is outside in the cold that he cannot move his fingers. He has to be there and working on those vibratory tools for two years; otherwise, he does not get benefits. Try to get the board to change that policy, despite a growing body of medical evidence to the contrary.

I am pleased the minister arranged—a request I made was turned down by the previous minister. Dr. Peter Pelmeur looked at white-hand syndrome. My information is that he is one of the leading experts in this field, but the board would not look at it. It had a policy and, boy, that policy is there. I am going to come to more of these. It does not matter how stupid or irresponsible it is, it is there. "It is policy and we will not change it until we are forced to." That is why I have come to the conclusion they are there to eradicate as many people as they can.

I hope when my friend the new chairman brings in medical personnel—I know how difficult it is because most of them do not want to work for the WCB. I know three leading specialists who were asked to work for the WCB and they all declined. They would not consider it, and they were the top people in their fields. They did not want to go through the hassle. When my friend is hiring or bringing in people, I hope they have competence and are prepared to go in and do a little housecleaning. I hope he is prepared to do some housecleaning.

Another thing I think has to be changed is the recognition of industrial disease. You are lucky if you get a decision in a year now. Sudbury Mine, Mill and Smelter Workers Union, the union in Sudbury, phoned me this morning and said, "At Mine, Mill, we had a policy with Falconbridge that a guy could get six weeks' insurance when he filed." Falconbridge would phone the insurance company, probably Travelers Life Insurance Co. of Canada, and say, "Give him six weeks." It will not do that any more. It takes roughly a year to

get a decision, and the guy sits out there without any benefits.

12:10 p.m.

The sad part of industrial disease is that we are never going to win benefits on behalf of injured workers in those fields. You have to have a fatality rate that is conclusive to get benefits. One only has to look at Elliot Lake. It took a real war and a royal commission before we finally got recognition for underground workers who died. We still do not recognize it for surface workers dying of cancer. They work in the same place and under the same circumstances. I guess the material is more intensified because they got rid of a lot of the junk underground.

I know the steelworkers have a list of about 60 or 70 surface workers who have died from cancer. We cannot establish that. Underground, we can, sure. If we look at the sintering plant in Copper Cliff, yes, we can. More than 100 people died, mind you. At Manville Canada Inc., I know they have not all been recognized because they have not received the benefits they have been promised. I am sure next week we will hear something on that when they make their presentation.

One cannot prove industrial disease without those staggering statistics. There are all kinds of reasons for which the board turns people down. It is not recognized. That leads me to one conclusion, namely, that we can and must get away from WCB and have universal sickness and accident insurance. There are only three things one is after when a person is sick. There is income; he has to get better, so there is physical rehabilitation; and he may need a new job. Those three things are involved. But we are not going to prove industrial diseases because companies are putting out gigantic amounts of money to fight them all.

In the United States they are pooling money. We know that. If one does any work in the field of occupational health, one knows that. They are not going to accept the four or five cases; it is lifestyle or they smoke too much. There are all the ratty excuses. Weiler said one in 30 was recognized as a legitimate claim. There is only one way injured people are going to get benefits and that is when there is universal sickness and accident insurance, but do not bring it in through the Workers' Compensation Board.

Let me say one other thing. The final point I think we have to look at is the unfunded liability. I do not care how big it gets, quite frankly, because management cannot have it both ways in this province, I say to the minister. They really

cannot. They cannot be the beggars who come down here, scream, cry, rant and rave that their assessment is getting too high and then, on the other hand, continuously fight to prevent meaningful health and safety in the work place. They want it both ways.

Having spent considerable time doing occupational health and safety, I know something about what is going on in that field. Management wants it both ways. It wants the assessment not to go up and it will not introduce meaningful health and safety programs. I bet you today there are 10,000 employers out there who still do not have a health and safety committee in place and the Ministry of Labour does not even know who they are, particularly in the unorganized firms. Where there is a union, it is not bad.

As I say, they want it both ways. We work very hard to keep the assessment down—by that I mean the former government of Ontario—and we are not putting enough pressure on them.

If they want to reduce their assessment, there is a positive way, and that is to reduce the number of accidents and illnesses in the work place. That is the only legitimate way. It is not by buying them, bribing them or paying them off to be good little boys. They are going to do it because the one thing they understand is money.

I cannot see anybody in this province in 1985 resisting meaningful occupational health, and yet it is there. The minister knows it. I do not know what he did yesterday. I am told he was going to issue a statement on that wonderful little company in Windsor which has refused for 10 years to accept ministerial orders and which is dilly-dallying, trying to finish off one plant, I am told, before it installs the shields that would protect workers.

I do not know what the minister is going to do, but that is proof positive that they want it both ways, that those people are not interested in bringing in meaningful health and safety programs, and that is the only solution.

I say the Workers' Compensation Board is an accomplice. If you will recall at Wilco, when the Workers' Compensation Board found out there was lead poisoning—they knew for 12 or 14 months before anyone else—I do not think they even went to the Ministry of Labour at the time to tell them that lead poisoning was going on and to get the Minister of Labour to send inspectors. If they did, then the Minister of Labour was at fault because he did not move in until it was raised in the House. After it was raised in the House, it took 18 months for the company to get a lead assessment.

They cannot have it both ways, and that is what management wants. The compensation board should be the first to trigger those investigations because they are the first ones to see them in numbers.

Mr. Chairman, I do not know how long you want to go. I am just beginning to warm up here.

Mr. Chairman: Mr. Martel, it is traditional that we sit from 10 a.m. to 12:30 p.m. and from 2 p.m. to 4 p.m.

Mr. Martel: Fine. I am in your hands.

Mr. Chairman: On the other hand, if it is convenient, we could break any time between now and 12:30 p.m.

Mr. Martel: I will just continue here for a little while. I will be a couple of hours.

That is why I have come to a conclusion about the only way we are ever going to protect workers. I would hope we could do some of what we want with those things I listed: attitudinal change towards workers and towards doctors; proper primary level of adjudication; a proper rehabilitation and retraining program, competent medical personnel; improvement in treatment of industrial diseases, particularly the recognition of them; and not worrying about the unfunded liability because management cannot have it any longer. But I do not think it will happen that those things will change. I have been here too long and very little has changed.

Therefore, I have come to the conclusion that the only way workers are ever going to be properly protected is when we have a universal sickness and accident insurance which will deal with three items: income while disabled, feasible rehabilitation and retraining. That is really what WCB is all about, but by God, you would not think it. Maybe some people say I oversimplify it. I do not believe I do. I say that as a conclusion because we will never be able to prove industrial diseases. It is too complicated, and the resistance from management to accepting that responsibility is there. There is only one way that people are going to get the protection they need, and that is through a universal sickness and accident insurance policy.

As I said earlier, we met representatives of 22 groups last Monday, to be precise, and we came to five areas we want to talk about with the board and with the new chairman. The first one is claims adjudication, the second is rehabilitation, the third is financing, the fourth is doctors and the fifth is industrial diseases. When I dealt with those 22 representatives from various groups last week, what I came away with, though, was that they had the same problems we have.

12:20 p.m.

As I read Dr. Hill's report, I could not help but outline some of the things Dr. Hill said about the board. Those who have not read it might be interested. Dr. Hill is almost offended by some of the things the board does. Let me tell you about one of them. He said:

"During the subcommittee hearings last fall, I met with board representatives on the issue of legal advice. I was assured that my suggestion concerning more legal input would be considered by the corporate board, but to date I have heard nothing from the board. It is my sincere hope that when the new corporate board and workers' compensation appeals board are appointed in July, they will make it a matter of policy to obtain legal advice in appropriate cases." That is pretty tough language from the Ombudsman about the board.

He also said: "Again this year, many of the complaints against the Workers' Compensation Board involve a conflict over medical evidence. Treating physicians are of one view and the board's physicians hold a conflicting view. In the cases that came before me, more often than not the board accepted the opinion of its physicians regardless of whether the workers' doctors are specialists or recognized experts in the relevant field of medicine."

You might not want to believe me because I am doing a little rant and may be irresponsible, but I hope you will believe the Ombudsman, who says that in his report. That is pretty tough stuff. You just ignore the worker's doctor and some yo-yo takes a look at a file and says, "You are finished."

It is pretty tough language calling someone a yo-yo, but I have had injured workmen come to me and cry. Men sit and cry, or attempt suicide. I have no tolerance when people are treated in such a cavalier fashion, when someone who is not a specialist overrides a specialist.

If one wants to look at the Ombudsman's report, the lengthy report, he talks about Dr. Alberti. I can identify Dr. Alberti in here as the only doctor in Toronto the compensation board recognizes with respect to hearing. But when the board does not want to accept Dr. Alberti, it tosses him aside in two or three cases in this report. You might want to read the report. I refer you to cases 14 and 15, 11, 12 and 13 on industrial deafness where they say they will accept his report, but when the Ombudsman goes to him to get his opinion, it is ignored by the board. One wonders why.

This is the doctor who, if you are trying to establish industrial deafness on behalf of a worker, unless Dr. Alberti gives you his blessing, it is very difficult. Then when it is convenient for the board to ignore Alberti, that is fine too. I cannot understand what goes on.

You wonder why I use such derogatory terms. I get offended because there is no consistency. One has difficulty putting a finger on the pulse of just what is going on in that place. I suggest the new chairman of the board might want to read those cases on industrial deafness.

I well recall him putting Dr. Harry Pearsall on a committee a number of years ago to bring about some change. Six years later that change still has not come about. We are still dithering with it.

The Ombudsman did not like some of the things, such as waiting for replies for over a year before he got them. Look at case 10, so I do not mislead anyone. It is all there. If you read this report, you will see exactly the same thing my friend from Sudbury talked about and that Dr. Hill and the 22 groups I met with last week are so offended about.

There is always a reason, but not a very good reason. You ignore your attending physician, you choose to ignore specialists willy-nilly and you do not even have to justify it. You just write off the worker as so much excess garbage.

In the next two or three minutes, because I am not going to speak on pensions at any length, I would like to give you a couple of examples of board decisions on pensions. I have three cases that are identical. They were all laid off from Inco—Harvey Wyers, Donald Pepin and Charlie Hebert. They each had 15, 16 or 17 years at Inco and they were all let go for economic reasons. That was the excuse Inco gave and it was the excuse the board accepted.

I got hold of the chairman and said: "There is something crazy here. It has nothing to do with economic conditions. These three men have enough seniority to bump any worker, except that they have a physical disability as a result of an injury. Did you take that matter into consideration at all?" They said: "No. You have to go to appeal."

We went to appeal with Harvey Wyers. I know something about Harvey. He is president of my riding association, so I know something about him. We won that one. We had to go all the way to the final level of appeal to prove that Harvey, who had injured his back underground, had more than enough years to continue employment at Inco, but his physical disabilities prevented him from bumping. We won Harvey's case.

Then we got Mr. Pepin; it was exactly the same case. The board did not accept it; it was exactly the same excuse. It was an economic problem. Could Mr. Pepin bump? Certain he could bump, but he could not because of his physical disability, not because of his seniority.

Then we have Charlie Hebert. Charlie is in the same position. The first one went to the full level of appeal; the second went to the appeals adjudicator and, finally, the claims review. It took three kicks at the can before we got the policy accepted. Why? They were all the same, and the board accepted what management said willy-nilly. We had to spend months trying to get those three resolved. We got them resolved.

Let me tell you of another interesting one, Morgan Dennee. These were all won. By the way, I think we have won 45 to 50 appeals since October 1980. Morgan Dennee is industrially deaf. He worked for construction company after construction company for which they did not take any tests for noise level, and he became deaf.

He was denied benefits, and you will never guess why. He went skeet shooting one summer, and as a skeet shooter, he was denied benefits. Can you imagine? Fifteen years during which not one bloody company tested for noise level, and you cut him off because he was skeet shooting and he was wearing the devices. He was also in a car accident, and that made him industrially deaf. You find any excuse.

Phil Polifroni has white-hands syndrome. Do you know why they would not give him benefits? Phil Polifroni was 18 years in construction in northern Ontario. They made a comparison between Phil Polifroni, 18 years in construction in northern Ontario, and a guy working nine months for Ontario Hydro in the Bruce. They decided that the guy with nine months working on this type of material in the Bruce disqualified Mr. Polifroni.

Can you imagine the compensation? I have both letters. I could not believe the compensation board would send me both letters, one in which they said they had made the comparison. It took us over a year to win that.

Mr. Chairman: Mr. Martel, would this be a good time to break?

Mr. Martel: Any time that suits you.

Mr. Chairman: I assume you have more to say this afternoon.

Mr. Martel: Oh, yes.

The committee recessed at 12:30 p.m.

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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament

Tuesday, October 1, 1985

Afternoon Sitting

Speaker: Honourable H. A. Edighoffer

Clerk of the House: R. G. Lewis, QC



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Substitutions:

Gordon, J. K. (Sudbury PC) for Mr. Bernier

Henderson, D. J. (Humber L) for Mr. Ferraro

McKessock, R. (Grey L) for Mr. G. I. Miller

Polsinelli C. (Yorkview L) for Mr. Sargent

Rowe, W. E. (Simcoe Centre PC) for Mr. Elgie

Clerk pro tem: Decker, T.

Staff: Madisso, M., Research Officer, Legislative Research Service

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, October 1, 1985

The committee met at 2:06 p.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984 (continued)

Mr. Chairman: I see a quorum. I understand that when we adjourned at 12:30 p.m., Mr. Martel was in the middle of his introductory remarks. This afternoon, the Minister of Labour (Mr. Wrye) will be here. He is at the opening of the United Way kickoff at this time. However, his parliamentary assistant, Mr. Polsinelli, is here. We will go ahead with Mr. Martel's remarks.

Mr. Martel: I am not sure I am at the midway point. Before lunch, I was going through a number of pension claims, not to prove anything except the stupidity by which some of these things were decided and that I was able to find the material to straighten them out. We won all these cases, by the way; they went to appeal, and we won them all.

I was down to Mr. Polifroni, the worker whose 18 years in construction were compared to the nine months someone had worked for Ontario Hydro on the Bruce Peninsula. Of course, Hydro's equipment was probably somewhat better than that of some of the small construction companies in northern Ontario. However, that was the comparison. The letters are on file. I do not know how it occurred.

James Armstrong also has vibration-induced white-hand finger disease. He was denied compensation. Even though he had worked underground for 20 years, we had to prove he had worked with vibratory tools during his last two years. We took that one to appeal and we ultimately won. The question I continue to pose is, "Why can I do it?"

Here is a dandy; this is part of policy. Paul Richer injured his leg back in 1961, but he continued to work. In 1984, he had his leg amputated. Do you know what the pension is based on? His 1961 earnings. His 50 per cent pension is now worth \$371.75. He worked all that time. What is the rationale for assessing his pension? The board has a policy that says it is based on the time he got hurt. It does not matter whether it is relevant to the time or 20 years later;

it still goes way back to then. We are appealing that one.

The next one we have is Dennie Sweet. This is a case I have before the Ombudsman. Dennie Sweet was injured in a railway accident. He should have been killed. He has a brace on one leg and an injury to the other leg, his right hand is fused like this, his left shoulder is smashed, he had a tracheotomy and he had nine broken ribs. That is for openers. He needs help to get up out of his chair and into the bathtub. The board assessed him at 40 per cent; I got that raised to 60 per cent. I have now sent it to the Ombudsman.

The interesting part is that three board doctors, independent of one another, made an assessment of the man. None looked at the others' assessments—it is not a meat chart when it gets that high—and they all came out at 60 per cent. Somebody might believe that, but I do not.

Since I submitted four medical reports from specialists saying he was totally disabled and could not do a thing, the board sent someone around. His right hand is like this, but they caught him trying to tap in a couple of old wooden shingles that had fallen off his house. This happened in 1967; so Dennie's pension has not moved much since then. He does not have Canada pension plan benefits because it was not paid up. He was nailing like this; that was one of the reasons, they said. They caught him working. His right hand is like this; he cannot even shave with it. He was assessed at 60 per cent by three doctors from the board, independent of one another.

It is also interesting that although they came to different conclusions on where he was disabled, they all came out at 60 per cent. That is one for Ripley, believe it or not.

Finally, there is Joe Guenette, a lovely gentleman who finishes his shifts on his hands and knees, mucking underground. He was turned down. He mucks on his hands and knees. He only fell nine feet straight through, landing on his back. He was pinned to the wall in a second accident. He does not have a claim; it is not related. His co-workers all say he walks on his left—when he gets too tired, he bends way over to the left—and on many occasions he finishes mucking on his hands and knees. For him, there are no benefits, no pension—nothing.

It is a wonderful system. I wish I knew how they do what they do, but they get there.

I did not want to spend much time on that. That is just the pensions, and I was not even going to mention pensions.

I would like to backtrack for a minute. I read a speech by Harry Glasbeck lately on the number of accidents in Canada and so on. Let me quote from a speech he made on the incidence of accidents; this is why I say I no longer worry about assessment ratings.

"While it is true that the number of people exposed to hazards is great and the time periods of exposure are in fact very long, it is also true that the accident rate is abnormally high. I use the word 'abnormally' advisedly. It is assumed by conservative measures"—there is no political connotation to that, by the way—"that a 10 per cent rate of accidents is high. Anything below 10 per cent is acceptable.

"On the basis of this very conservative approach, Canada has an appalling record. In 1971, we had as good a record as we have ever had, and we had 9.82 work injuries per 100 employees. In 1974, we went to 11.46 per 100 employees. From 1968 to 1977, the average was 10.57 per 100 employees.

"Sadly, the trend is worsening. Rowan reports that one work injury happened every nine seconds in Canada in 1967, every eight seconds in 1972 and in the period 1973 to 1976, every seven seconds."

That is why I say I am not worried and why I could not care less about these people who argue about whether the fund is actuarially sound. The employers cannot have it both ways. There is only one way we are going to reduce the number of accidents, and that is through meaningful occupational health and safety.

What is even more intriguing is that most of these are accidents involving industrial diseases for which you cannot establish a claim. He goes on to say:

"This recorded catastrophic rise in accident rate, which you will have noted does not include ill health caused by exposure to hazardous substances and the like, was coincident with the introduction throughout Canada of sophisticated health and safety legislation, of which Ontario's statute is representative."

If the rate of accidents is so high and we do not include most of the industrial diseases, there is no hope for compensation. We need to have a system that is vastly different, otherwise we are all going to find ourselves fighting on behalf of

claimants suffering from various industrial diseases.

I want to move on to the five areas I said I wanted to talk briefly about. One of them was claims adjudication. I want to read you a letter I wrote to dear Lincoln. Back on August 29, 1983, I wrote Lincoln Alexander a letter. I got nasty in it too. It says:

"Over the past few weeks, I have read some of the most ludicrous decisions ever made by the board. I am not sure if the summer heat has affected someone's mind. A while ago I wrote to you concerning Mark Rouillard, a worker who was to go without income until the required surgery was performed."

In other words, the board would not assist the man until an operation proved it was related by whatever was discovered, and he could starve. By the way, we won that one too; we took that one to appeal and we won.

Another case was that of Mr. Polifroni; I outlined it earlier. I mentioned to Lincoln that this man was denied benefits based on the findings in the situation of another worker who had worked for only nine months for Ontario Hydro. We took that to appeal and we won it.

"Mr. Bernard La Ronde was also denied benefits. According to the WCB medical branch, between the years of 1973 and 1981 he was employed where there was no use of vibratory tools. However, the information Mr. La Ronde has provided to me is completely opposite, and now the matter is being investigated." We took that to the board and we won that.

In the case of Mike Comeau, the attending physician and surgeon indicated the injury was probably due to his original accident in 1981. The compensation board doctors said no. We took that to appeal and we won it.

The next case is that of Denis Higgins. In its wisdom the claims review branch concluded that Mr. Higgins's left elbow disability, diagnosed as right tennis elbow, had not been shown to be causally related to the injury sustained on November 9, 1979. Is that not wonderful? His left elbow disability was diagnosed as right tennis elbow. Where is somebody coming from? By the way, the same orthopaedic surgeon did the surgery both times. We took that one to appeal and we won it. This is all in one letter.

Mr. Caralio was sent by Dr. Capes in Toronto to see a Dr Kryspin for pain. They would not accept the original Capes report. Once they got Kryspin's, they jumped on the Capes report: "It is better than Kryspin's. We had better accept the

Capes report now when we would not originally, because Kryspin is too tough."

Robert Pilkey has recently had benefits terminated, and yet Dr. McCluskey stated in a letter in March that the man needed a brace to wear for his back problem and further had to be rehabilitated if Mr. Pilkey could not be a carpenter. He has only grade 12 education and is still on medication. We took that one to appeal.

We also took the case of Mr. Bibeau to appeal. "I am enclosing a copy of Dr. Leclair's report which indicates Mr. Bibeau is worse and his condition is deteriorating." However, the good doctors from Toronto, without seeing the man, wrote him off and said he could go back to work.

The case of Mr. Fex is very tragic. Dr. Maki, the doctor in Sudbury, said his present condition is related to his original accident. It took us 14 months to win that one.

2:20 p.m.

This is all in one letter to my friend Linc. I said to him, "Look, we have the documentation and we are going to appeal every one of these." We did, and we won them.

Tell me why the board, with the staff it has at its disposal, did not do the proper investigation in the first place. It is absurd for me, with my staff of one, to try to do this kind of work. It tells me there is a great failing somewhere in the board. We won every one of those cases. That is why I come back to this. I am never certain why the board does what it does. Is it there to cut people off, or is it there to try to find the facts? How does it teach the staff to work? What in God's name is going on?

I am going to be a little more careful now, since my friend Chuck Rachlis and my assistant, Carol Freeman, prepared this. I will not be able to rant as much, because they are going to keep me a little more tightly in rein. However, it leads to the first question we want to raise: Is there any internal study or evaluation of what is going on?

I no longer believe the figures the board gives me, showing that it has X cases, that everything is done correctly, that this is without any problem, that this is done in three weeks, four weeks or five weeks. I must have all the problems in the province in my riding. I do not believe that to be the case. I do not happen to believe the board's figures any longer.

What we would like to know is whether there is any internal study or evaluation of the appeal rate, of the rate of successful appeal or of problems encountered at the initial adjudication level. I would like the answers, particularly about the initial adjudication level.

I am not sure the annual report indicates very much of that. In fact, I think the member for Sudbury (Mr. Gordon) put his finger on it this morning; it is a rather flowery report that looks at what is going on through rose-coloured glasses.

If you want to look at the report, it says on page 8:

"Any claim in which a claims adjudicator recommends denial or limitation of entitlement, and any objections to a decision, are automatically referred for independent review by the board's claims review branch. In 1984, there were 30,999 such referrals, an increase of 37.2 per cent over 1983....Claims adjudicators' recommendations were confirmed in 57.1 per cent of claims."

Half of those you admit to were reversed. Does it trigger anything in anybody that something is wrong at the board? Surely it must, if one less than 31,000 were reported and 57 per cent were upheld, which means 43 per cent were reversed. Does anybody ask himself why those initial adjudication decisions were reversed? What is going on? Did anybody dig into that? Maybe somebody will tell us.

On page 9, the report says denied claims are up by 20 per cent from the year before. I would like to know how many of those claims taken to appeal were won at the second level of appeal, or at the third level—of all those denials—so we can make a real comparison using what is going on. How many were denied? How many were accepted? How many were reversed? What is prompting this?

One has to assume that economic conditions were bad last year; so one simply has to make tougher decisions, and 20 per cent more claims are denied than the year before. In other words, denied claims are up by 20 per cent, initial rejections are up by 37 per cent, total claims are up by 13 per cent, and of the initial rejections, only 57 per cent are upheld.

2:30 p.m.

Chuck used to teach, and he has written down here, "Fifty-seven per cent used to be a D plus when I taught." There are a few people over in the board office or somewhere that we should fail. We are dealing with lives.

Were staff members instructed to clamp down with respect to initial rejections or denials of eligibility? Is board management aware of any effort or any policy that might have suggested to board personnel that approval procedure was to limit access to Workers' Compensation Board benefits, through tighter controls at the claims adjudication level? If not, then how does the

board management account for the discrepancies in these rates of increase?

Further information in the report suggests problems in initial adjudication of hearings before claims adjudicators. Appeals were allotted, or partially allotted in 49 per cent of the cases. I know what the board is going to say. Mr. Alexander used to tell us this, and so did Mr. Starr. They say: "Does that not prove our adjudication system is working? We are saving the workers. Hurray, we saved them." That is nonsense. The trauma people go through over a year's period is unacceptable. We reversed 49 per cent. That is crazy. Those mistakes should not be allowed to happen. That is what is wrong.

You go before the appeals people. I have had the odd argument with Doc Jacobs. However, that is okay. Doc and I go back 18 years in this business together. Does anybody ever ask himself why so many mistakes were made—49 per cent—and what effect they had on people's lives? We do not have a foolproof system. That is what I heard when I raised this in the past. They say: "Wow, look. We have that system in there. It saves people. It helps them, and you get a second kick at the can." If you have separated from your wife or attempted suicide, or your family has broken up during the period of time, so what? You have eventually won.

I do not know how many of us could go a year without income, or, if reduced to welfare, what we would feel like. I do not see that as being great. I say the incidence of improper adjudication is too high. All of us could reduce our work loads if that were improved.

I will tell you one of the ways I believe it could be improved. We could take the busy work out of the files. I am now convinced that 65 per cent to 70 per cent of the material in the files is a waste of time; it is merely busy work. I got that term from teaching. Busy work was when you wanted to keep the kids going but did not have adequate preparation or material. You created busy work. It was nothing of value, but it kept them out of your hair. You kept them busy. You do a hell of a lot with them.

Have you ever looked at a file and seen something has been investigated eight or nine times? Take one of those files out. I am not sure why you have to repeat the report of the accident eight times. I am told it is because General Legge set it up that way.

Tell me why someone should report the accident. You sent out an investigator and the investigator found nothing had changed. Why would the investigator rewrite the whole report—

seven or eight pages? You would then send out another investigator, as somebody else raised the matter, and another. I have seen it done seven times.

First of all, it is unnecessary. If the accident report is put down fairly—on the first page of the report—and then someone investigated it, if nothing changed, he might put a notation on it saying that this investigation occurred on a certain date and nothing was different from the original accident report. If you found something had changed, you would put a little addendum at the bottom.

2:30 p.m.

If you look at the file seven or eight times you will see some of the wording is changed. You would have six or seven different inspectors involved, and it only takes one or two words in the third report to start to change the direction of it. That does happen. If you investigate it seven times, and there is nothing wrong or different, why do you not put "nothing changed" on the first page? There are 50 pages of busy work in somebody's handwriting, which you cannot read and which is totally useless information. You look all over for it. If there is something different, you add an addendum.

Do you know what is happening, I say to my friend the chairman? Claims adjudicators, as I understand it, have so many cases they have to look through in an eight- or a 10-day cycle. I am sure of that. It might be 140 cases or it might 120 cases, and they are lengthy. They have to check the crazy things. Some are not; some are. They have to do it on so many days' cycle. What happens when you have 10 files and only three hours left?

I will tell you what I think happens. That is where the mistakes are made because they are sifting through it like mad; they are going through it like a galloping goose. Mistakes are made there as well.

I would say half to 60 per cent of the information is totally useless unless there is something new in the case outside of making the notation. I asked Alexander two years ago to look into that. I ask the new chairman to have that reviewed, to see if it is necessary to have the investigation done seven or eight times and rewritten seven or eight times unless there is something different. Why should it be busy work?

Let me continue. Why should the same claims adjudicator, or the same investigator if possible, not handle the claim continuously, instead of a half dozen investigators and a half a dozen claims

adjudicators. I realize there is turnover of staff and so on. That can cause some of the problem. It seems to me the same worker should remain on it as much as possible because he knows the case.

Let me go on here. I have digressed from my notes. If we look further at the report, I got down to 49 per cent at the adjudicator level. Of the appeals that went to the final level, there was a one-third reversal of the decisions. If there is one-third at the board level and 49 per cent at the adjudicator level, that is an awful big percentage, is it not? If you take 49 per cent out of the first group, and then a third of what went on to the appeals board, my God, that is an awful lot of reversals of initial adjudications somewhere along the line. Something is hairy.

That is why I said to the minister this morning that Messrs. Ellis and Di Santo are not going to be able to cope with the volume unless that level is cleaned up, and pretty dramatically. That is the problem all of us have had over the years.

Let me continue from the prepared notes. I will try not to digress. Can we get more substantial information from the board as to the reasons for the high rate of reversals both at the claims review and appeal stages? Surely there are internal studies or evaluations that account for this rate of failure at the initial level.

Can we establish if there are more reversals at claims review largely resulting in investigations, or are they resulting in denials being turned into allowed claims? Are the appeals from the initial adjudication being won on the basis of error in adjudication or are there other factors? If there are other factors, what are they?

Is medical evidence the deciding factor? I suspect it is. We have won as many cases as we have because we have dug out the appropriate medical information, thanks to the doctors involved. I say that if I can get it, then surely the board can if they ask the right questions. One of the best questions to ask is—I would like to know if they ever ask it—is this present condition related to the original accident and, if so, how? I am not sure that claims people or anyone else ever bothers to ask the doctor that question. I am not sure they want the answer.

We know from our contacts in the labour movement that backlogs for hearings are a serious problem, as the member for Sudbury (Mr. Gordon) mentioned. We are looking at a six-month wait at least. If the board wants to improve that, it might continue to pay people during those six months until it makes a final decision, as is done in welfare or family benefits cases. Is it better to put somebody out on the

street without any income when he cannot go back to work?

It is obvious the route the board has chosen is to dump the worker. Maybe the benefit of the doubt, which is part of the act, should go to the worker until all the levels of appeal are finalized. It does not now. They chop him, and then he must prove his claim. It is not the board that must prove the worker is trying to take the system for a ride, if that is what the board believes. The worker has to prove he is not. I do not know where that is in the act.

I thought the benefit of the doubt had to be given to the workers because they gave up the right to sue, and so on. If that is the case, if that is what is happening, it is new to me.

The act contains clauses providing for benefit of the doubt to be awarded to a claimant and for rebuttable presumption of eligibility in cases of occupational disease, as the board personnel are aware—subsections 3(3), 3(4) and 122(9). However, time and again, claims adjudicators tell us they are not authorized to apply either of these. We have been told that kind of discretion is allowed only at higher levels of board staff—team co-ordinators and above. Is this true? If not, how does management account for this perception on the part of the claims adjudicator? Why are the adjudicators telling us this?

What step is management prepared to take, either to correct this incorrect perception or to remedy this end run around central aspects of the workers' compensation system?

We have other concerns. According to a recent set of updated policy guidelines for initial adjudication, adjudicators can make a decision to deny a claim based solely on the submission from the employer, without waiting for the file to be complete. Such a decision generates notations of G2(21), G2(22) and G2(23). This is described in sections 33 and 23/02 of the claims adjudication manual dated June 13, 1985.

What is the justification for this policy? Could the board personnel please expand not only on its justification but on the actual mechanics of such an administrative denial? There is only one policy we want to see substantially modified or deleted. At the very least the injured worker and his or her representative must be kept informed and notified of such a decision.

It is also current board policy that overtime not be part of the calculation of earnings. This results in serious injustice, as we have argued repeatedly, especially in circumstances where overtime is either a regular part of the job or compulsory, as in the case of the auto workers. You cannot claim

overtime. It is not calculated. However, you are forced to work overtime. If you get injured, you do not get any of the overtime in your calculation for benefits. That makes sense, does it not?

I can recall asking a former Minister of Labour to do away with licences and permits for overtime. This has to come in this province. Inco is laying off, or trying to get rid of, 1,200 people. In some plants they are working 33 per cent overtime, while other people are walking the streets. Mind you, they do not get any benefits for that, should they get hurt. I am told that is when injuries occur in many places, after the regular eight-hour shift.

2:40 p.m.

Representatives from the various unions I have spoken to in the past two months tell me they are going crazy trying to figure out workers' benefits and how they are arrived at. Since the board knows how in God's name these things were arrived at—it calculated them—does it think it would be possible, in the first paycheque sent to the worker, to include a copy of it? Might it be in the interest of the workers to know how their salaries or their benefits were calculated? Is that asking too much?

The board has done it all anyway, and I am sure it is all on computer. We heard this morning how they are moving to computer calculators. It is in the annual report. But they do not tell them how it was arrived at. Keep them in the dark and then let them get somebody from the union or somebody from someone's office trying to figure out how the hell this was arrived at.

Whatever you do, do not tell the workers. God, no, it would be too intelligent to do that, so that no one would have any illusions as to how that figure was arrived at. It might be difficult to put it on a piece of paper. Instead of having 900 forms, which someone mentioned this morning were all translated in French, we could have 901, one more form, which would show how a man's income was arrived at. I would hope that is not too much to ask, because the board has been plagued by that, as have unions.

I met with the counsel for the United Auto Workers in July or August, and they were just frantic trying to figure those out. You cannot get it changed. It makes too much sense, and it would save all of us a pile of work if it was either put right on the cheque or with an attachment to the cheque. That is common sense, and I am not sure if that will prevail. Pardon me if sometimes I get angry because it was a sensible request by the unions to get that done since it is all calculated anyway.

Let me go back to industrial diseases. In certain cases, especially industrial disease cases, overtime is a crucial factor. We have heard, for example, of a worker making a claim on the basis of his work-place exposure to asbestos. In his particular case, exposure of 20 years is required to generate eligibility, but he only had 17 calendar years. Do you see why overtime is important? It is like the Elliot Lake workers. However, over the time of his employment in the plant, his overtime amounted to the equivalent of five additional years. We are told that his case was rejected on the basis of 17 calendar years as opposed to the 20 required by the board.

I remember we had this argument over Elliot Lake. My colleague the member for Nickel Belt (Mr. Laughren) was there when we argued about the amount of exposure underground, and one simply could not use a calendar year. Of course, the mining industry was very cute. It had not kept any records in many instances of how much overtime was worked, so how could you really give an evaluation?

I say to the board that is ludicrous. We have to be not just flexible, but sensitive and sensible. Maybe the new Industrial Disease Standards Panel will have something positive to say, but it has been our experience with industrial diseases that it is awfully difficult to establish a claim for everything.

I am sure the representatives of the Manville workers, who will be making a presentation, will have something to say about these accumulations of time and overtime and how they should be calculated.

The no-fault character of the workman's compensation system, that there be no intimidation or workers as a result of filing a claim, logically means several things: (1) no reprisal clauses such as in the Occupational Health and Safety Act; (2) a right to reinstatement; and (3) an aggressive policy of education aimed at employers, workers and the public.

Time and again, we hear of people fired shortly after making a claim with the WCB. I am going to come back to that. I think Falconbridge has fired 55 workers in the past little while, with service ranging from six years to 15 years. In fact, one of them is one of the workers who was crushed in the accident last year. He has three crushed vertebrae in his neck. He is out the door. I am going to quote the letter I wrote the minister to which I still do not have an answer.

There has to be protection. I want to know what the board intends to do about this matter. I would like to know if the board has any idea how

many workers have been dismissed once they were injured. I wonder if the board has ever accumulated that kind of documentation. How many workers have been fired once they have filed a claim for compensation? I am told it has become common now in Ontario to dismiss workers once they have been injured.

I have submitted a documented list of 50 or 55—I might be a little bit wrong about the precise numbers—in the past year and a half to the former Minister of Labour, Mr. Ramsay. I will read a letter I submitted to him. The board should know. It should find out if workers are being fired. The board knows who is on the job and who has been hurt. It could provide that information to the Minister of Labour so we could formulate policy that prevents that sort of discrimination, that sort of intimidation or that sort of hostile reaction by management.

We have already mentioned the policy that permits administrative denials of claims where the file is incomplete. There are additional direct financial costs borne by claimants whose files are incomplete and where such unilateral action is not undertaken by the board. Even if we assume that such denials only occur when a worker is being unco-operative, and I make such an assumption only to draw attention to the problems, then what corresponding control does the board exercise when employers are late in filing required information?

I suggest you look at Canadian National as a company that files late constantly. I would like to know how you assess them for filing very late. The claims go amok and workers do not have income. How do you penalize these companies? Is it a slap on the wrist with a wet noodle or are you really kicking them in the head? There is an onus on the board to increase that cost so companies will report promptly.

That is part of the problem in adjudication and it is a problem we have to overcome. Mr. Di Santo will tell us how many instances there were last year of people reporting beyond the time limit established by the board for reporting, how many fines there were there and the cost of those fines. How much was it worth to delay?

In cases of recurring injuries, the common problem is establishing continuity. Let me give you a couple of examples. You will enjoy this. This is the board's favourite. If one looks at the board cases, the worst kind is a recurrence. You might think it would be the simplest, since most of the medical information is there. It should be merely a case of getting on the hummer and finding out what happened. It is anything but

simple. It is now taking two, three or four months before the investigation even starts. Then it takes months to gather the information. If the board can find a way to screw the worker out of benefits, it will find that way in the continuity.

2:50 p.m.

Here is one example. Mrs. Mallette was injured and they told her it was all in her head. I sent her to Toronto to see Dr. Nethercott at St. Michael's clinic. They finally did a little surgery. After two years of fighting, and we appealed, she got it all back. It was all in her head, because a couple of board doctors said there were no problems.

Dr. McCluskey, the orthopaedic surgeon in Sudbury, said he thought there was a problem. He suspected a herniated disc. He is only an orthopaedic surgeon, so who the hell is going to believe him? You could get somebody else. We finally won that one. The problem was that there was no continuity, even though Dr. McCluskey said he thought there was a herniated disc.

Do you remember Mike Hopkins? He was a Progressive Conservative candidate. He came to me last Christmas. He had been off work, starting September 4 last year. Two specialists and his family physician looked at him. They said he could not even walk on his ankle.

Meanwhile, today, happy days are here again. Let him go to work. He is 69 and he cannot walk. I sent him down to Toronto and he saw an orthopaedic specialist. In half an hour they whisked him off to the hospital. He went for four months with no income. He was denied by the doctors in Sudbury. They are good fellows.

John Cale had a back sprain, resulting from unaccustomed duties. The adjudicator did not bother to compare the regular duties to the duties of the new job. We appealed that one and we won.

In Sudbury, we believe if you want to get rid of somebody with a back problem or a knee problem you send him or her to one specific orthopaedic surgeon. I will not name him, but we know who he is. Every time a case is sent to this doctor the worker is cut off without fail.

Mr. Parent was sent to him. It is a fact that Mr. Parent had been off for a long time. Every time he did something, his knee swelled up. Dr. Tait, the orthopaedic surgeon, said, "We have to do that." We won that one.

It is interesting. They made a decision. The doctor said he should get the 50 per cent level and the claims adjudicator said 10 per cent. Therefore, we had to appeal a second time, because he was going to go to school for upgrading. Since he

was upgrading, they gave him his level of disability at 10 per cent. We appealed that a second time and won. It is up to 50 per cent.

There are two cases I want to get to. There is a difficulty of continuity in each of them. You will like this one; I say this for the minister. Royce is his first name; I will not give you his second name because we are appealing it. He had a chest injury in 1984. Benefits were paid until an adjudicator realized that Royce had open-heart surgery several years before.

You know how difficult it is. Royce went back to work for 18 months with no aggravation or problems, except for the injury 18 months after his heart surgery. You know what a stickler the board is for continuity. You have to be at the doctor every month to prove the injury. They cut him off. Somebody decided he had had a heart attack. He had a chest problem, so it had to be a heart problem and not an injury. I think we are going to appeal it. No, we are not. We won it. Royce went 18 months without a problem with his heart and somebody at the board decided he had continuity.

Let me compare him to my friend Fred Zoepel. He injured his back working for the CN. He is a car knocker, that is someone who bends over the cars, opens the boxes and tamps in the oil. Six months after going back to work his back bothered him again. He cannot work. Do you know what is missing? They deny it. There is no continuity. After six months there is no continuity.

Royce had made an appointment a month earlier with his doctor, but his back seemed to get better then. He is a tough worker and he stayed at work. That means five months. The board said, "Cut him off; there is no continuity." For our friend Royce, there is no continuity with his heart problem after 18 months back at work. The claims adjudicator finds there is continuity of some description. They cut him off in March of this year. We finally got the money for him last week, but think what it did to Royce and his family. How do these things happen? Many of them are aggravations of pre-existing conditions.

If the board investigators were even to ask the appropriate questions they might get the answers we are able to get. I simply do not know how one puts the sad news to Royce and makes this connection, unless one is trying to cut him off. People wonder why I come to the conclusion they are looking for reasons to zap workers. You tell me the justification for cutting that man off without going back to the family physician and the heart specialist before doing that. But no, not

the compensation board staff. They put the boots right to him.

It has to change, and I do not know when it is going to change. Those things should not be allowed to happen, and for continuity you have got to start much later than three or four months after the accident.

I am coming to an example in rehabilitation. No, I will save it until I get there. It is the same thing in rehab; we will come to that as well. I do not want to miss anyone today, because there is something crazy with the system. There should not be six-month and seven-month delays in what are just renewals of old injuries, because all the material is there. This board finds reasons, and continuity is the biggest and most favoured game they use.

Maybe they should tell the worker every month, "Go and report to your doctor and tell him whether you are okay." You have workers who are really good people who do not want to run to the doctor all the time. You know what happens to them because they do not run to the doctor all the time? They belong to the group that is classified as "no continuity." They will struggle to work with a sore back, and they are penalized for it.

Maybe we should be advising them. I hope Mr. Di Santo and his group advise all workers to go to the doctor every month. You want to pay lots of bills? Maybe that is the way to do it. Just tell the workers to go back to the doctor every month and tell him how they feel. But they do not, interestingly enough. Most people are conscientious and want to work.

Maybe you will look into why those things happen. I have a note here that says, "Common problem: claims for industrial deafness now involve waits as long as a year in order to get an examination at St. Mike's." That is the clinic we deal with to a large degree, because we have found a doctor and some staff who are sympathetic to workers and who will look at them carefully.

I hope that instead of giving the Industrial Accident Prevention Association \$30 million we might take the \$30 million and give it to clinics and to the Ontario Federation of Labour to teach people how to protect themselves using the Occupational Health and Safety Act, instead of the phoney ads that are run by the IAPA and the phoney programs that are management-oriented. Take that \$30 million and give it to the workers, since they are the ones in the plants. I have never seen such a boondoggle in all my life.

3 p.m.

We have heard about the meat chart from the minister and the chairman. I hope that thing will be eliminated. At least the Canada pension plan takes into consideration whether you can work, but what does an injured miner with two discs get—18 per cent? 19 per cent? He cannot go back to work. In many instances he cannot be retrained. We do not even take into consideration the fact that he has been wiped out. He cannot work, so we give him 17, 18 or 19 per cent; which is a joke, because his whole capability of supporting his family is gone.

That really has to be reviewed; it has to be eliminated. We have to take into consideration what those injuries do. I do not say that cavalierly, because I know what people say. They say, "If you give them too much they will stay at home." That leads me into rehabilitation, because that is the place where we can make the biggest inroads if we ever get a program that makes any sense.

I do not want to disappoint Mr. Darnbrough, so I am going to come up with a couple here that deal with rehab. Before I get to Mr. Darnbrough, I am going to read you a letter I wrote to Mr. Wrye about Falconbridge, one of my favourite companies, with Jesse James at the head of it. They are such gentlemen with workers. I wrote to the Minister of Labour on August 1 and said:

"Dear Mr. Wrye:

"Re Falconbridge Nickel Mines Employees' Discharge: further to recent discussions, I have compiled and enclose documentation outlining, in particular, six categories used by Falconbridge Nickel Mines to unfairly dismiss employees. They are as follows:

"1. Company can dismiss when absence results from illness or injury for 12 months. Should employee return within the 12-month period, must work 30 shifts to qualify for an additional 12 months." If he is on rehab and you send him back and he cannot last the 30 shifts, you dump him. You cannot accumulate it. You get rid of him.

It gets better: "Company can dismiss when absence in excess of 12 months results from injury and illness and employee unable to perform duties assigned."

The company has this nice letter. If you go back, Falconbridge says, "We are going to take you back, but should you miss a day or two, it is up to us whether you are fired or not." The guy wants his job so badly he signs. He says to the union: "Forget my protection. Just get me my job back, I have to work." If he misses a shift, he can

be fired just like that because he missed a shift without permission. It is good stuff, is it not, in 1985? It reminds me of the robber barons of 150 years ago. Not much has changed.

"2. Company can dismiss, although employee fit for modified work, when company has no modified work available." They simply say: "Yes, you could do modified work, but we do not have modified work. You are fired."

It gets even better: "3. Company can dismiss, despite family physician's authorization that the employee is fit for regular work, when company takes the position that the worker is partially disabled."

If the worker has a disability pension from the WCB, let us say 10 per cent, and the family physician says, "You can go back to your regular job," the company says: "Oh, no. You cannot be 10 per cent disabled and be ready for your regular job. You are fired." Is that not a nice way of doing business?

"4. Company can dismiss, although employee certified fit for regular work by family doctor, when a WCB partial permanent disability assessment is anticipated." If down the road the man is totally back to work and he is going to be reassessed after a year, when the board will assess him for a disability, the company says: "No, he might have a disability, so he cannot do his regular work. He is fired."

"5. Company can dismiss when a noncompensable illness follows a WCB claim which required a 12-month-or-more absence.

"6. Company can dismiss when permanent modified work is required."

I gave the minister the names, the months of experience and the years of work. There is an easy way of getting around this problem, by retraining the workers properly. Since Falconbridge is paying the price and since they got hurt working at Falconbridge, then the company should retrain them. If it takes two or three years, so what? Falconbridge is paying. The workers are working and making profit for them. They will not take them back. They dump them on the street like a hunk of garbage.

Why do you not retrain them? I do not care how long it takes. You did that with Inco a number of years ago. Inco eventually started its own training department, because at the time we were able to prevail upon Michael Starr to train them all. When we finally got up to 35 or 40 in school, the company said: "Wait a minute. This is costing us money and we are not going to get any benefits from it. We will start our own training department." That is how they are

getting rid of them. Part of the retraining program should be to retrain them adequately, even if takes two, three or four years. We are talking about adequate retraining.

I know a lovely woman who is 54 years of age, Emma McGillivray. The board sent Emma back to school when she was 51 and upgraded her. It took 13 months to get enough skill to type 30 words per minute. They sent her to business college. The unfortunate part is she has only a grade 8 education and every employer she goes to see says to her, "You have to have grade 12," because she cannot compose a letter. Now that is retraining. Send her out, spend 13 months retraining her and she cannot get a job because she does not have enough education.

Why did you not upgrade her first to grade 12 in English, French and maybe mathematics? Mathematics is perhaps not necessary, depending on what she is going to be, but the English and French are. She is still unemployed, mind you, and still trying to find some employment at age 54. She is on her meagre little pension. We are trying to get the board to send her back to school now to upgrade so that she can qualify when employers ask for grade 12.

Mr. Demerais, of course, is a very different case. André is a lovely young fellow of about 35. He has a leg all smashed, has had back surgery, wears a brace, has a back disability and has 25 per cent disability in one leg alone. Their doctor in Sudbury said, "This man can do his regular light-duty job for this company." Do you know what his light-duty job entails? It involves lifting and carrying 100-pound chains. Is that not magnificent? The good doctor in Sudbury said that is okay.

They cut him off four months ago. When I called them this summer they said to me "Mr. Martel, the file is in Toronto." André phoned two weeks ago and the file was still in Sudbury. It was four months. Last week we finally got André back on. I was told the file was in Toronto. It never left Sudbury.

But the good doctor, that good and wonderful doctor we have up there, says lifting 100-pound chains when the man has had surgery, wears a brace, has a bad back and a leg with a 25 per cent disability is okay because it is light duty. Most people in this room could not do that even without an injury. As I said earlier, I am sure I will insult some people before the day is over, but that is the way it is. That is just stupidity.

There is the case of Mr. Filiatrault. We are always told the man was not forced to quit his job. They cut Mr. Filiatrault off. He had 15

years at Inco and no retraining. They said, "Go out and get a job or else." The fact that Inco would not take him back when he had 15 years' seniority is similar to the cases I gave you earlier today. We went to work on that one and got it reversed, based on the fact that he should not have to quit his employer.

3:10 p.m.

Mr. Valiquette, on the other hand, was denied a commutation for a confectionary store, despite the fact the doctor's report stated that since he had four or five years' experience in the confectionary business it might be to the board's advantage to assist him. He wanted \$7,000. I have reached the point where I object to a man having to take his pension to establish a small business, even if he could get it. Why should he take his pension to try to start a small business? Since he got hurt working for the employer, why should it come out of his pocket to start that business? Why do we not start him in business so he can become self-sufficient? They denied it.

I am going to give you an interesting case. A young man by the name of Richard Harvey lives in Elliot Lake and is on a three-year program with rehab. He asked to have his family relocated to Sudbury from Elliot Lake.

The board has a policy. The board says: "No, we cannot relocate Mr. Harvey. Our policy says there is no relocation when we are training. We will bring him back and forth once a month at a cost of \$55. We will also pay him \$70 a week room and board while he is in Sudbury for three years."

The cost is \$2,000 or \$3,000 a year. It is going to cost the board \$10,000 to move him back and forth to Sudbury and pay his room and board in Sudbury for three years. It would cost them \$2,000 or less to relocate him. They will separate him from his family for three years, except for the odd weekend, and it will cost them \$8,000 more.

We have a policy and, by God, we have to live with that policy, even if it is stupid, asinine, idiotic—call it what you want. They will not relocate Mr. Harvey. They will let him be away from his family for four weeks a month, they will pay \$70 a week room and board in Sudbury and they will pay his transportation to Elliot Lake once a month. You talk about stupidity. It is in big, block letters.

It is like this all the time when one goes into rehab. What is so frustrating about rehab—it really drives me around the bend—is that the guy has been off work for two years, three years or a year. They give him a copy of the Sudbury Star or

the Hamilton Spectator and say, "There is a list of jobs." He is insecure; he has a bad back or a bad leg. They say: "Go out and find an employer who will hire you. Once you have found an employer who is going to hire you, then we will pay for part of the retraining if you are lucky enough." That is part of rehab, and that is crazy.

I do not know whether you people deal with people. I have found that most workers who have been out for two years are so insecure, are so unsure of themselves and feel so inadequate that they really cannot cope, but they are sent out on their own to find an employer who is going to hire them. The board says, "Then we will sign an agreement that we will pay part of the tab."

Where is the common sense? There is a program, and I know that the steelworkers from Hamilton are going to speak about it when they come in, called the orientation to change program, which is being offered at Mohawk. In it they take the worker for a month and try to orient him to find out his goals and to teach him how to apply. They do a whole orientation to try to help. I do not know whether that is the answer, but what we are doing is not. Anybody who sends an injured worker out with a newspaper and tells him to find a job is nuts.

If I can go back to the report we did five years ago—we had the educational levels, by the way, and they were really something to behold: grade 8 or 9; second language: English, Italian, French or Finnish; and we send them off to find an employer who is going to find them jobs or take them on. That is rehab.

Oh, I will hear all kinds of fancy gobbledegook, I am sure, by the time I start to get some answers, but I want to tell you that is the way the workers I have dealt with are treated. I suspect if you ask the minister, the member for Nickel Belt (Mr. Laughren) or the member for Sudbury (Mr. Gordon), you will find that is rehab.

They will send some to school, but that is a real problem. You try to get someone into a community college. Everything is done not to send him there. If it is someone with grade 13 or something comparable, they might send him because he is easier to train. I just illustrate some of the things the board does. Common sense does not prevail. Let me go back to my notes.

I heard the minister this morning, and I read his article in the paper a couple of weeks ago about a two-tier system of reinstatement. I say to him, now that he is here, the best way to cure those people who are firing workers is to retrain all the workers and make the company pay for the retraining. Companies would find jobs for them

and maintain them. If they did not, they would pay the cost to retrain them, not society. They should pay. Then we will find jobs for them. We have to become far more sophisticated, but the first thing we have to do is prevent people from being fired.

We have to improve the vocational rehabilitation section. Some of the medical rehab is not too bad, but vocational rehabilitation is really serious. I have tried to illustrate this, using just a couple of cases. Accordingly, we want to see the board actively pursuing some of the existing opportunities. We want to see the establishment of a joint committee composed of employers, unions, injured workers' groups, the medical profession, the WCB and community colleges in all Ontario centres to co-ordinate local needs and resources in the vocational rehabilitation areas, as is done with local training councils in the area of vocational training.

In addition, we direct the board's attention to the orientation to change program, which is available through Mohawk College. We hope the board will look at it. I know that Local 1005 is going to speak to it when it comes. The basic context is availability of jobs and the additional physical, emotional and psychological disadvantages faced by the injured workers in finding employment after recovery from injury.

The basic requirements for us are to satisfy the spirit of no-fault compensation and the right to reinstatement. It is the responsibility of the board to find work for these people. This can be done in a meaningful way or in a purely formal manner. Much of what occurs now does not meet substantive requirements of injured workers—for example, giving them a list of addresses and phone numbers. We get that from all over. The 22 groups that were in last week said the same thing. We give them a list and send them out to find a job. Maybe that is what the board has decided is rehabilitation. I do not know. I do not think it is, but I am not an expert in that field.

A major problem is perceived to be the cross-purposes of the board. There is no real argument on the medical side, but there is a widespread sense that the vocational rehab division is under enormous pressure to show results, by either achieving job placement or getting these people on to Canada pension plan or welfare.

If I can digress for a moment, you might tell me why the board has suggested it not take people readily to Downsview who have been off for six months. I have a letter to substantiate that, but I would like to know why. They believe the

chances of their being successfully reoriented are slim; therefore, they take workers who were out for only three months. A doctor from Toronto sent me that letter, a copy of which I passed on to the minister. I hope he will get around to answering it.

3:20 p.m.

One thing I would like to see from rehab when they do a report is not what we have now. Let me refer to this carefully because Chuck does it much better than I do. What I really want to know is how much difference there is when you retrain a man or a woman between the job he or she was on when he or she got injured and what you send him or her back to. I would like to know how much pay differential there is.

Let me go through this carefully. Much of what we know of the circumstances of injured workers comes from the 1980-81 survey. This shows, for example, that of almost 7,000 pensioners surveyed, 40 per cent were unemployed. In addition, despite the efforts of the board rehab program, there was enormous wage loss involved, whether the individuals were working full- or part-time.

Amongst these unemployed, the average disability was 23 per cent. That means these people from the WCB had basic pensions of 75 per cent of their gross average earnings. We know that the earning base tends to underestimate earnings, but even if it did not, this level of permanent partial disability award would mean for someone of maximum need in 1981 an income of \$350 per month.

Among those working full-time, the average disability was 14 per cent, and these people experienced an average wage loss of 13.5 per cent. In addition to the astonishing 40 per cent rate of unemployment among WCB pensioners, the real eye-opener is the experience of those working part-time. These people had an average disability of 18 per cent, less than many of those with permanent disability resulting from low-back injuries, but the average wage loss among this group of pensioners was 57 per cent.

In other words, although they had achieved sufficient rehabilitation to go back to work and were able to find work corresponding to what one presumes to be their reduced abilities, they were working, on average, for less than half their pre-injury wages. This suggests a massive failure on the part of the board rehab efforts.

Another massive failure amounting to dereliction of duty can be found in the comments that accompany the presentation of the report. On page 7 of the survey, in the section headed

"Results", one finds the following statement: "Table 2 shows that 40.1 per cent of the respondents stated they were unemployed. Of these, 2,767 unemployables, or 70 per cent, had a medical disability rating less than or equal to 20 per cent. This may suggest that some of the unemployed are in that state due to reasons other than their work-related injury."

A clearer example of blaming the victims, of passing the buck and of attempting to duck responsibility is hard to imagine. It is not hard to figure out why some old, ineffective practices persist when the failure of the board can be so blithely written off to a lack of motivation or some failing on the part of pension recipients.

Let me turn to the 1984 annual report. It says: "Of the 7,633 persons referred for rehab, 3,714 returned to work. As well, 696, who will not be returning to employment, were assisted in achieving financial self-sufficiency."

Of those who returned to work, how many returned to their pre-injury employ? How many returned to similar or identical work with another employer? Was there any generalized experience of wage loss? What was the average percentage wage loss among those who returned to pre-injury employ and those who found work elsewhere? In other words, how many of the skilled workers who found work ended up at minimum wage, as low-paid workers or in dead-end jobs?

That is not anywhere in the report, is it? That would be a blemish. It would not make the glossy document nearly as glossy if we knew what was happening to those people. Heaven forbid that we would want to know.

Is there adequate statistical and other information to answer these and similar questions? Is there regular and ongoing follow-up with such people? What does "were assisted in achieving financial self-sufficiency" mean? Does it mean minimum wage? Does it mean welfare? Forgive my cynicism, but does it mean they are assisted in applying for Canada pension plan disability benefits? Maybe somebody can explain it.

I will go on. The report says, "A total of 4,820 job opportunities for rehabilitated workers were secured by board staff in 1984." Of these, how many were at or near the minimum wage? How many were actually filled by workers referred by the board staff? How many of those who got jobs were still in them three, six or 12 months later? How many of the jobs the board is taking credit for did workers get by themselves?

The report notes that "2,654 training programs for injured workers were commenced in 1984."

What is the average completion rate of such training programs? How long do they last? Is there is difference in the unemployment rate among those who finish courses and those who do not participate in them? Is there is a difference in the average wage loss experienced by those who take courses and those who do not?

We are told it is customary for the rehabilitation branch to send workers out to jobs paying less than their pre-injury earnings on the understanding they will be supplemented for wage loss and that quite often, at a subsequent date, the pension department terminates the supplement. Is this so?

What could produce this situation? Are we to understand that when such supplements are paid, it is now policy for them to be strictly limited by time? Is the argument that after a while you get used to living in reduced circumstances? Could rehab and other board personnel comment on this?

We understand that rehab does not train people for part-time work nor does it list employment opportunities for part-timers. Why not?

One of the most serious impediments to re-employment of injured workers is the lack of right to reinstatement. I heard the minister this morning and I hope he is very tough. I hope I get a letter from him about the 35 to 50 cases I sent to him when Falconbridge was firing workers.

I want to go on to financing briefly. I am getting close to the end of my remarks, I am running out of steam. I said earlier that I am not worried about the costs, not that I do not worry about money, but I think the day will come when employers realize that if they pay enough they will bring in occupational health and safety.

As long as they are going to have both ends, and that is what they have right now, and they can talk the board into holding the assessments down, they do not have to introduce occupational health and safety. In fact, they are going to have to try to control both. If they want to pay it one way, through occupational health and safety, then the board should be able to improve the assessment rate because the number of accidents and illnesses should go down. Until they pay the price, they will not understand that they have to bring in health and safety, which will save money.

That is the only way it is going to work. There is no other way. I do not want to talk about unfunded liabilities, but I told the minister I hoped he would give clinics and the Ontario Federation of Labour the amount of money he gives to employers in the Industrial Accident

Prevention Association. Was it not \$30 million this year?

Dr. Elgie: It was \$12 million.

Mr. Martel: Was it \$12 million? What brought it down?

Dr. Elgie: You were talking about the overall amount.

Mr. Martel: It used to be much higher than that.

Dr. Elgie: You just asked how much they got. Are we going to argue about that?

Mr. Martel: Why do we not give the OFL and some of the clinics an equivalent \$12 million so they can set up clinics across the province and train workers to protect themselves by using Bill 70? Just \$12 million, that would be fair, since there are far more workers in the province than there are employers.

The other thing I want to ask the minister and the new chairman is that they get rid of their phoney ads. I am nauseated by workers appearing to be dummies. I am sick of the ads that make it look as if the workers are stupid and create their own situations. I have never seen even one ad about a boss sending a guy to work in an unsafe area, but I have seen lots of dumb workers climbing ladders and having a wall fall on them or falling into holes because they did not put protection around them.

3:30 p.m.

The one that really gets me is the little girl saying to her daddy: "Are you going to come home safely tonight? If you just work safely, you will come home this evening, daddy." Or the one that irritated most of us is that awful one on asbestos: if only the worker had known; if only he had informed himself. If only we had right-to-know legislation so we would have to tell him what he is working with and what the effects are, that would help.

They continually run ads that make working people look like dummies. They use money given to them by the government to do it through the workers' compensation. I have to clarify that, or somebody will correct me. I am told it is their money. By the way, workers pay as much as the employers—I think that is in the annual report somewhere—although employers say they are the only ones.

I suggest to the board and to the minister that we give labour the same amount of money to work with. They will enforce Bill 70 in this province a lot more responsibly than management has. I remember the argument when we brought in Bill 70, at which time the new

chairman was the minister. All the workers were going to be irresponsible. They were going to shut down all the plant operations and there was going to be chaos. You said that. I did not say it.

Mr. Chairman: I recall we were allies—

Mr. Martel: That is right. The employers said that and they are still saying it; but the employers are not introducing the act into all the work places so we should give the unions the money.

I wanted to talk about board doctors. I hope the minister and chairman will find competent doctors who will treat workers as they are entitled to be treated. Let workers get the benefit of the doubt and let the employers, and not advocates on behalf of workers, prove it is an illegitimate payment. It is just the other way around.

I have been told by people in Sudbury within the board that there is a list of doctors who are not acceptable. I am sure there will be all kinds of denials of that. Do not believe them. The board people think the doctors on this list are too generous with the patients and so you need extra information from them, such as a report from a specialist.

I could name some of them. Dr. Davidson is one. Dr. Huneault, I am told, is another. They are good doctors who really support the workers. Pull it out and we will argue with the board. You have to be suspicious of them because they are too generous. Dr. Larry Sutherland is a neurosurgeon who left Sudbury. I could go on at length. I have read some of their ridiculous statements. One of the worst areas is occupational health where the people making decisions are not even specialists in that field. You might look at Dr. Dan Hill's report.

Then there is the whole question of industrial disease. I am not sure why it takes a year to get decisions. I am not sure how we can ever prove that a man or woman gets cancer from working in a plant unless a lot of people are dying. We use lifestyle and everything else, but how are we ever going to prove it. Somebody may be able to tell me. I was talking to a woman who was here the other day. She told me about six women in her plant who work with video equipment, all of whom have had miscarriages. That is much like the case Bob DeMatteo brought before the Legislature involving old city hall.

The onus is on the workers to prove it, but it is impossible to sort out how the workers can. It is even worse when people are determined the workers are at fault. That is why I keep coming back to universal sickness and accident disability insurance as the only thing that is going to sort it

out. You will not have to prove where you got it; you will be compensated and retrained.

Let me ask one final question: I talked to the United Steelworkers last week. Section 21 of the act says you have to go before a company doctor or be dismissed. Here is the act. Let me read it to you. I have difficulty understanding it:

"(1) Subject to subsection (2), where an employer so requires, a worker who has made a claim for compensation or to whom compensation is payable under this act shall submit to a medical examination by a medical practitioner selected, and paid for, by the employer.

"(2) Where a worker objects to the requirement of the employer to submit to a medical examination or to the nature and extent of the medical examination being conducted by a medical practitioner, the worker or the employer may, within a period of 14 days of the objection having been made, apply to the appeals tribunal to hear and determine the matter and the appeals tribunal may set aside the requirement or order the worker to submit to and undergo a medical examination by a medical practitioner or make such further or other order as may be just."

I thought that somewhere in Ontario workers had a right to confidentiality. I really thought that was so under Bill 70, under the Krever report and so on. Why is this in the act and how is it going to be applied? An employer that has its own group of doctors—it seems to me the whole thing is there to try to get rid of a worker.

The company doctor, no less. My God, where is the confidentiality of a worker's record if you can send it to the company doctor? What is going to happen if you say no? Are we going to be into appearances with the union before the Ontario Labour Relations Board if the guy says no? How is that going to be fought out? The guy says no, so we will have not only compensation, but the labour relations board to contend with, just to try to get the guy's job back because he says, "No, I am not going to a company doctor whom I consider to be there not in my interests but to protect the employer's interests."

There cannot be any other reason for that, and I say it is unacceptable. I hope the board will explain to me how it is going to work and why it should be in the act. It is a disgraceful piece of business and I think it infringes on a worker's rights. When my friend was the Minister of Labour we had some cases in which companies wanted to know more than they should have known. That is part of the problem. It should be the family physician who deals with the worker and not the company doctor.

I have raised a whole series of questions. I have gone on too long. I suppose I have insulted a few people. I have been a bit erratic, some will say; irresponsible, others will say; but after 18 years I have had it. Something has got to be done to clean up what is going on. I am hoping, although I am nervous, that the new chairman and the new Minister of Labour will come down heavy to clean up that mess.

All of them have been involved, as the rest of us have been, in compensation claims, bad adjudications and a whole series of things that lead one to conclude that workers are the target and that getting them off the rolls as quickly as possible is the solution. People will say that is irresponsible, I suppose. Be that as it may, I am going to make that statement and I hope we will get some answers during the next couple of weeks.

Mr. Chairman, I apologize for taking so much time.

3:40 p.m.

Mr. Chairman: Mr. Martel, no apology is necessary. We have heard extensively from Mr. Gordon and Mr. Martel. I know the chairman is new at the job and the minister notably so. Dr. Elgie, do you wish to respond at this time to any of the specifics of Mr. Gordon and Mr. Martel?

Dr. Elgie: Could we wait and have it tomorrow? I think the claims people could deal with each of them tomorrow.

Mr. Chairman: That is fine with the committee. This afternoon we will have with us Mr. Di Santo from the new office of the worker adviser. He has just started as well. He is not prepared to make a statement but he is prepared to answer questions from members of the committee. I already have the beginnings of a speakers' list so perhaps we could proceed directly to it.

Mr. McKessock: I listened to a large part of what the two opposition critics said. One of their main concerns was the slowness of the process, and I agree with that. I had a call from my riding office at noon about a claim, which I will mention in case somebody from the WCB would like to bring me the answer tomorrow. Other specific claims have been brought to its attention as well.

The person is Bob McArthur and his compensation claim number is C14859258. I have been in contact with him several times over the past number of months. His case went before claims review and he was told on September 13 that he would know in a couple of weeks. This morning

he was told there is still no decision and there was no indication as to when he would know.

That is the problem we see. There would not be a problem if decisions could be reached and processed more quickly, so we could say to a constituent, "We know you are going to get an answer in three weeks because all claims, reviews and appeals have a time limit of three weeks." If there were some way of getting that done, there would be no problem. However, it goes on. They are told one date and a decision is not reached on that date. Then they are not given any date at all as to when a decision will come in.

It gets very frustrating, both for the claimant and ourselves. I agree about the problem with the length of time. There is a problem with claims going on and on without any decision and conclusion being reached.

Hon. Mr. Wrye: The specific information has been taken down and we will make an effort to get a specific answer. At this point, it may be more appropriate for the chairman of the board to talk about the difficulties in this kind of case. Before making any further comment, we should see what the difficulties have been in this case. There have been occasions when investigations began and turned out to be more extensive, detailed and difficult than they were first thought to be. I do not know whether that is the case in this matter, but I agree with my friend the member for Sudbury East.

As I look at the 1984 report, in terms of investigations, about six out of seven of the so-called complicated claims are cleared up within a month. Given the number, that still means there are some outstanding. However, the board is certainly striving, and the new chairman and corporate board will be striving, to increase that figure fairly dramatically, because there is a problem of income being stopped when a worker is injured. The longer the claim is outstanding, the more difficult it is and the frustration builds.

Mr. McKessock: Just to emphasize their frustrations, they told my constituency secretary they were going to CITY-TV, the Parliament Buildings and W5. They say after a while these things just kind of explode because they are tired of waiting. You can see that by things that have been said.

Mr. Barlow: Are we going to be having Mr. Di Santo come forward?

Mr. Chairman: He is prepared any time there is a question.

Mr. Barlow: I was wondering how Mr. Di Santo perceives his new job. Will he be taking an

advocacy role for those who perhaps do not come to us, the members? Of course, we all get many of them. I am in a highly industrialized area where a great portion of the work load in my constituency office is WCB cases. I just wonder whether Mr. Di Santo perceives his new job as one of advocacy if he is contacted directly by an injured worker.

Mr. Di Santo: Most definitely. That is the role of the office. As the minister said in his introductory remarks, we will be helping the workers not only at the appeals level but also in solving their claims with the board. Any worker who contacts our office will be helped by us.

Mr. Barlow: By the way, congratulations on your new appointment, Mr. Di Santo.

Mr. Di Santo: Thank you.

Mr. Chairman: I was concerned about the limits on your office, Mr. Di Santo. What happens in Sudbury, for example, since it is the area I know best, if you have an enormous piling on of claims at your office? You heard, or perhaps you were not here, Mr. Martel talking about having more than 200 active files. Mr. Gordon, myself and the unions all have large numbers. There is an enormous number of problems. What happens when they start descending upon your office? Do you have the mandate to expand, or are you going to be limiting what you do?

Mr. Di Santo: At this stage, the office will have 30 worker advisers in Toronto and the seven cities the minister mentioned, all over Ontario. This is a very temporary situation because we do not know at this stage how many cases we are going to handle. We hope not all the people who are involved in helping injured workers will turn their cases over to our office, because we would be paralysed. In a number of months we will be able to assess the situation and see whether the advisers we have now will be enough or if we need new resources.

Mr. Chairman: The minister listed this morning the communities where the worker advisers' offices are going to be.

Mr. Di Santo: They are Sudbury, Thunder Bay, Ottawa, London, Windsor, Kitchener and Hamilton.

3:50 p.m.

Mr. Martel: How many did you hire? I hope it was 500. You would need that just to handle the work.

Mr. Chairman: That is nine communities?

Mr. Di Santo: That is a question that you should ask the minister.

Interjections.

Mr. Chairman: Just let me complete this. Therefore, it is about three worker advisers per community. Is that including Toronto?

Mr. Di Santo: In Toronto, we are going to have 10 advisers initially, with an office downtown and two storefront offices, one in the east end and one in the west end, and 20 advisers in the other offices. In some offices there will be two and in some offices there will be three; it will depend on the concentration of cases.

Mr. Chairman: So the six months is the trial period?

Mr. Di Santo: Yes. April 30 is the cutoff date, when we are to reassess the situation.

Hon. Mr. Wrye: If I may help here: we have opted to decentralize right from the outset. In terms of getting the system up and operational, obviously it would have been easier to limit it to Toronto at the outset. We have opted for the more difficult route of trying to decentralize right from early October on, in recognition of the volume of claims in other communities.

I might say that the board came to my officials before Mr. Di Santo was hired, and we examined the claims volume coming from various communities. I know certain members may feel they have been left out, but the final community placement that has been mentioned is not etched in stone. We have opted for those communities that have generated the kind of claims volume we think is appropriate to have worker advisers.

I stand to be corrected—the board would have exact figures—but I believe the highest claims volume outside of Toronto came from Hamilton, Windsor, Sudbury and so on down the line. There was significant volume. We did not feel we could have no office between Toronto and London, for example, so we felt the office in Kitchener-Waterloo would serve that area and Cambridge. Because of the volume, we have opted at the outset to start with two in northern Ontario, one in northeastern Ontario and one in northwestern Ontario.

As Mr. Di Santo points out, we will examine the pressures on the system at an early review time, which will be about six or seven months into the operation. For now, it is a matter of getting the operation up and working. I believe there have been interviews in a number of communities and some hiring has already been initiated, has it not?

Mr. Di Santo: That is right.

Mr. Ramsay: I too would like to congratulate Mr. Di Santo on his appointment. I was very pleased when I heard of his appointment, as I was about the appointment of the chairman of the WCB. There are some good Tories around, and I think the chairman is an example of that. Those were two very good appointments, and I would like to congratulate the minister on them. I wish the two well.

Mr. Di Santo, in the five months I have been in office, I have picked up 50 active WCB cases. I was wondering how you would envision your office of advisers fitting into the network that already exists. As Mr. Martel mentioned, whether it is our constituency workers, unions or the various groups that help workers, how do I, as a member with people in the constituency who help workers, use the benefits of your office to help us bring the cause of the worker before the board?

Mr. Di Santo: The minister said we are starting today with our operation, and we have not yet worked out a system of how to get in touch with the different constituencies and with the people who now serve the injured workers. However, we hope we can work out a referral system with MPPs and other groups so we can serve injured workers, especially in areas where they do not receive service now, or in the case of MPPs where they have too many cases and cannot handle them.

Mr. Ramsay: Do you see our offices continuing to work directly with the Workers' Compensation Board and then, say if we have problems, using your office as a sort of mini-Ombudsman to act as interference for us?

Mr. Di Santo: In a way, that is an individual decision for each member. If you want to handle a case, it is up to you, but we would make our services available to you, as to everybody else. If you want to refer your constituents to us, we will be pleased to serve them.

Mr. Martel: When your people are handling these cases from square one, I hope they will attempt to establish what happened, where it went amok. I have said the same thing to Mr. Ellis. We have to get at what the problems are to try to eliminate those things that are needless and causing problems that should not be, which comes back to the whole matter of primary adjudication.

It is imperative that we know. Maybe the board knows now. Maybe in the answers I get in the next couple of days they will be able to tell

me. I suspect they do not know. However, as the cases come through the people who are going to be employed by the ministry, through you as the chief officer, I hope we will compile carefully and make recommendations either to the corporate board directly or to the chairman or the minister. How that reporting is done has to be worked out so it does not get buried and so all of us know what is going on.

There has to be a way of trying to zero in on why so many people are now involved in compensation who should not be and on where the system falls apart. I hope the minister concurs with me that we should get an analysis. There can be mistakes at the beginning. What does that matter if one is trying to alleviate that situation? Unfortunately, I have always found that governments are so busy protecting their *derrières* they do not like the facts to come out. I suppose all governments do that, but in the final analysis it might be better if we knew about the mistakes rather than finding out through a brown envelope or somebody's suspicion of somebody.

For many of us, the problem is not being able to get a handle on where the system falls apart or what it is. The inconsistency is probably the biggest thing to cope with. If one could trace a series of mistakes that are identical, one could say, "Aha, that is the problem; let us eradicate it." There seems to be so much confusion that one cannot even do that. I used to do that regularly with Bill Kerr and I recall, on more than one occasion, with a fellow by the name of Art Darnbrough. We used to try to do that. I have to confess that of late I have not been able to. It is the inconsistency that is so frustrating, and the frequency with which we must represent claimants.

What I am saying is that between your responsibilities and our new adjudication system, I hope we will try to trace some of those things so the minister and the new chairman know where it is falling apart and so we can try to get rid of some of those things. I hope that makes sense and becomes part of the mandate from square one.

4 p.m.

Mr. Di Santo: If I may add to Mr. Martel's comment, I think I can say our office will have enough resources, and specifically we will have a research department that will concentrate exactly on what he says. We will compile an index and it is to be hoped we will be able to identify the cases and the number of cases that are recurring. At that point, as part of the mandate of the office, we

will be able to suggest to the minister the changes we think are necessary.

Hon. Mr. Wrye: If I might add to that, part of Mr. Di Santo's job description includes aiding the minister, and through the minister ultimately the board, in policy reform. It is significant that his reporting line is to the assistant deputy minister responsible for policies and programs.

One of the reasons I am so delighted with Mr. Di Santo's appointment is that, given his expertise coming into the job, not only can he do the very important day-to-day job of aiding injured workers, appearing on their behalf and ensuring they are well and fully represented, but he can also begin, as you say, to help in the formulation of policies that will alleviate some of the difficulties I think the board and all of us recognize it has had.

The matter of Mr. Ellis remains to be worked out with the new chairman. However, Mr. Ellis is going to be an ex officio member of the corporate board and, as a result of that decision, he will have an opportunity to have an active voice as he sees problems coming up.

I think it is fair to say that as we went through the process of the administrative reforms proposed by Professor Weiler and by the white paper, as a member then I did not realize the impact these administrative reforms might have, understanding the importance of the other changes. The reforms, the new worker advisers, the workers' compensation appeal tribunal, and indeed the makeup of the new corporate board which I hope to share with you shortly, will all play a role in making the kinds of changes we all want to bring about.

I do not know whether Dr. Elgie has anything he wants to add.

Dr. Elgie: I think we all share those hopes. You mentioned the fact that Mr. Ellis would be sitting on the corporate board as an ad hoc member. There are reasons for that too, because there was some worry he might have some division of his judicial and corporate duties. That is why he is an ad hoc member.

I hope he will bring to the corporate board the kinds of issues Mr. Martel was talking about, such as a clearly recurring policy issue or a recurring primary adjudication problem. That is the kind of issue I hope he will bring before the corporate board. That will help us try to resolve internal struggles. It is a viable point.

Hon. Mr. Wrye: I want to apologize to the members for being late this afternoon, particularly since this is the first day. I apologize especially to the member for Sudbury East and to you, Mr.

Chairman. Our friend from Sudbury will understand that we were meeting with senior officials from Inco in an effort to discuss some immediate problems we have there. That is why I was late in the earlier instance.

I have a 4:30 p.m. appointment with the head of the Ontario Federation of Labour; we had a little foul-up. The appointment was for 4:30, he has to be in Belleville at 7:30, and I have another small problem to attend to between now and then; so if I might be excused, I expect to be back tomorrow.

Mr. Chairman: The minister makes it difficult to object.

Hon. Mr. Wrye: My parliamentary assistant will be here and will be keeping me abreast of all the discussions that go on between now and then.

Mr. Chairman: I am sure I speak for the committee when I say we hope that both you and the chairman of the board will spend as much time as you can this week and next week with the committee.

Are you finished, Mr. Martel?

Mr. Martel: I am not sure how much sense there is in going on today. There is a whole series of questions we have raised, and it is important we start to get answers for them. I do not want anybody from the board to work overtime tonight, but we need to get answers to those problems.

I hope we can review things rather systematically. I have presented the five points I want to discuss, and while I am not trying to limit it I would eventually like some answers to some of the questions. I do not want to get an answer six months from now. This might be an opportunity to adjourn and let the board start so we can do it in a progressive way. Others may have things to say; I do not want to infringe.

Mr. Chairman: We are in the hands of the committee. Mr. Rowe was next on the list.

Mr. Rowe: A lot of my questions have been answered by some of the minister's statements, but I am curious about something Dr. Elgie might give an estimated guess on.

I was upstairs—I apologize for being away from my duties here; however, I was doing a little research in my office—and discovered that out of 210 action sheets my assistant and I have done to date since May 2, 124 have been about the Workers' Compensation Board. That is kind of staggering for a city the size of Barrie; most of them come from that city.

I am keenly interested in knowing when the changes you are making, which I wholeheartedly

concur with, might lessen the work load of our WCB cases to a point where we could get on with other things and not have to deal with these on a daily basis. We had five this morning, which is rather staggering.

Dr. Elgie: I do not think anybody can give you a precise answer on that. What Mr. Di Santo, the minister and I are trying to say is that we believe there is a number of administrative and judicial reforms to be put into place that will provide a degree of stability and certainty at a variety of levels.

I mentioned that the chairman of the appeals board will be an ex officio member of the corporate board. Therefore, if there are recurring problem themes that he and the appeal board see they can be brought to the attention of the corporate board, which may then wish to review them. An example would be an area of primary adjudication that consistently seems to be making a finding that is overturned.

That is what Mr. Martel is driving at, that there be some way to get at the fundamental issue down the system without always having to wait

until the end stage. That is not going to happen overnight, and we should not try to deceive anybody that it will be nice tomorrow.

Mr. Di Santo will have to go through a period of sensing what his role is and the number of people he requires. The new appeals board will have to go through a period of adjustment. I suspect there will be some backlogs for a month or two or more. After that, we will try to get a sense of where the strengths and weaknesses are.

Eventually, our goal is to have a system that allows us to get some input back to where the real problem is in the system as a result of some constancy about the final level of appeal and the fact there is representation on the corporate board.

Mr. Chairman: If it is the consensus of the committee that we adjourn until tomorrow morning and then get on with specifics directed at officials of the board, this committee stands adjourned until 10 a.m. tomorrow.

The committee adjourned at 4:08 p.m.

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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament
Wednesday, October 2, 1985
Morning Sitting

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC



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Vice-Chairman: Ramsay, D. (Timiskaming NDP)

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 2, 1985

The committee met at 10:11 a.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984 (continued)

Mr. Chairman: The committee will come to order. When we adjourned yesterday, it was agreed the Workers' Compensation Board would respond to the questions or allegations raised by Mr. Gordon and Mr. Martel. I would ask the WCB people to sit at the table. Most of them are familiar with the location, having seen the movie before.

Mr. Gordon: And the answers.

Mr. Chairman: Yes, as well as the questions.

Mr. Martel: That is what I am afraid of.

Mr. Chairman: I am sure Mr. Gordon and Mr. Martel will remind you of the questions that need answering. Mr. Gordon, do you want to do that or let them go ahead?

Dr. Elgie: I have a suggestion. Mr. Cain might start off and run through some of the comments. Perhaps when he is finished, if Mr. Gordon and Mr. Martel feel any area has not been touched, they could remind him of it. Would that be better?

Mr. Chairman: That is a good idea.

Since we brought Mr. Cain here, I should say for the record that when we were dealing with Bill 101 and writing the committee's report, he was of immeasurable assistance. We welcome him back.

Mr. Cain: Yesterday, the major issue that was addressed in terms of appeals had to do with delays. I agree entirely; there are undue delays in the system. To address the problems that were brought up yesterday, I would like first to describe the new review services division. Then I will go back to the problems and try to show how this system, together with the new policies that are being incorporated—that began yesterday—will, I hope, resolve the problems you described. I will be referring quite extensively to my notes to ensure that I answer your problems and clearly describe the new system.

I have some handouts if it would be appropriate for the clerk of the committee to give them out to the members.

Mr. Martel: Did you get paid overtime for that?

Mr. Cain: I got supper money, I will have you know.

Dr. Elgie: We are providing you with a list of questions they want you to answer tonight.

Mr. Martel: I guess I am ready.

Dr. Elgie: We want them answered, though. Answers are what we want.

Mr. Cain: To begin, the new review services division and the operations surrounding it begin with the operating divisions—that is, vocational rehabilitation, claims, finance, health care and part of the medical services division—making the initial decision. Therefore, it is made entirely in the operating division, as of yesterday.

When it makes a decision that is considered adverse to the injured worker, a letter is written to him. Included in that is an objection paragraph. It simply points out to the worker that he has a right to object to the decision. It brings it to his attention clearly. However, in addition, we attach a brochure—a copy of the text of that is being given to you now—which describes the worker's rights to representation, to worker advisers and to assistance from people at the board such as counsellors and claims adjudicators. It gives him his full outline of rights.

Mr. Martel: As we go along, rather than trying to lump a whole series of questions together, if there is a point where we do not make a connection, can we interject at that point to try to clarify it?

Mr. Cain: Certainly.

Mr. Martel: I think I understand what you are driving at. My concern, though, as I tried to illustrate yesterday, is whether this will answer the problem of primary adjudication in the sense that this is where many of the problems we are confronted with arise, and not just at the appeal level.

What is going to clear this up? What is going to improve the primary level of adjudication? That is my concern. I am not sure this will answer it. I pose these questions to you now because this all seems to be secondary, coming after the primary adjudication has been made. Is that not correct?

Mr. Cain: Yes.

Mr. Martel: Although the time factor worries me, it is the primary adjudication that seems to cause an overwhelming majority of the problems. Some we take to appeal, but once the primary adjudication is made, you are into problems.

Dr. Elgie: I think Mr. Cain is dealing first of all with the issue of delays in appeal hearings. Is that not what you are doing?

Mr. Cain: That is true.

Dr. Elgie: Then he will deal with how what he is talking about now will address that issue.

Mr. Martel: All right. I will come back to it.

Dr. Elgie: Then he is going to get back to the other matter.

Mr. Cain: I will be happy to come back to that, Mr. Martel, because I think there is something in here that helps some of the things you are talking about.

Mr. Martel: Okay.

Mr. Cain: In any event, if the worker decides after reviewing the letter and the information provided that he wishes to object, he has immediate access to the claim file. The brochure shows that if he wishes to object and he does object, he has immediate access to the claim file. That is a little earlier than it is today in the system.

There will be a tear-out section in the brochure they can fill in indicating that they wish to object and that they want access. When an objection to the operating division's decision is received at the board, it is immediately sent back to the person who made the original decision.

If there happens to be new information in the objection letter that would allow that person to reverse the decision, he would do so immediately. If it has something to do with a medical question, if a doctor at the board or a telephone call to a doctor might allow that person to reverse the decision, then he should do it. However, there is a time limit of two days written into the records; they must not take more than two days. To take longer than that, you are into a recycling process, which in the long run does not work very often.

Mr. Chairman: Is what you are doing here really informalizing the claims review branch? Is that what the goal is?

Mr. Cain: One branch of the new division contains all the old review branches but in a separate division.

This particular point is simply to say that if a worker provides additional information when he is objecting, it seems reasonable that if the originator of the adverse decision could now change it, better he does that than put it through the whole review process, which I readily admit obviously takes much longer. That is the purpose of it. The limitation on it is that they must not keep that claim more than two days before they send it on to us.

Mr. Martel: How much time does the claimant have to get back to the board?

Mr. Cain: Any length of time.

Mr. Martel: It is two days with the adjudicator who is handling it. He has two days to respond, either negatively or positively?

Mr. Cain: No, I am sorry. The worker comes back and says, "I object to the decision that has been made, and these are the reasons I think it is wrong." That letter goes to the originator of the objection letter, the claims adjudicator. The claims adjudicator, looking at it, may say: "Oh, was that new information? I can now allow it." And he should do so. Or he may say, "That is not quite enough, but if I make a telephone call to So-and-so or I go to see the doctor in the section, maybe there is something here that would allow me to provide entitlement."

10:20 a.m.

What we are saying is that the claims adjudicator cannot take more than two days to reverse the decision. If he cannot reverse the decision in two days, he must send it on to the new review services division. The reason for that is we found from experience over the years that when you start to recycle things, it can take for ever and all too often you do not reverse the decision in the first place; so why waste the time?

Mr. O'Connor: Have you any statistical information on the frequency with which the decision is overturned at this first informal review of the situation after a phone call to the doctor or perhaps because of some new evidence from the claimant?

Mr. Cain: I cannot say. This system started yesterday. This is a new system. We will talk about statistics later on. I readily admit our statistics are not as detailed as many of us would like them to be. We have handed out statistics sheets which look rather complicated, but they are computer forms; so it does not matter. It is hoped we will be able to gain a great deal of information from now on.

Mr. Ramsay: Even though you are talking about a new system, we are still talking about the

first-instance decision the board makes. In this case, since we are finding so many of these first-instance decisions are being overturned at the next level, what is the missing piece of information throughout the cases that are eventually overturned, whether it is through the adjudication or appeal process? What seems to be missing when that first decision is made against a claimant?

Mr. Cain: There is no one thing one can turn to. Perhaps the objection is to the way the earnings basis has been set for some reason. A more senior person with greater experience looking at it from an independent point of view might say, "Perhaps we can ask the employer for a little more information about that lost time" or "Maybe there is a way we can construe the earnings over a longer period of time." There are things that more experienced people can do.

There is no one thing, as I say. You may want an investigation because you feel that while everything is fairly clear in the file, you wonder whether something more happened at the time when the person said he hurt himself. He may have mentioned he was bending to pick up something, and it seems clear he never really started to bend over. He may have indicated in the accident report that he was going to bend to lift something. The question then comes up whether he actually did it or, in the report, just did not bother to give the details we want because he did not understand we need more details.

It is a mixed bag of information one is looking for. I am sorry I cannot be more specific than that.

Mr. Gordon: Does it not make you feel uncomfortable when you say that if a more senior or more experienced person had looked at this, the decision might have been different or something more might have been added to it? What happens to the worker who is the subject of a particular decision? It seems as if the workers are being left in the lurch.

Mr. Cain: On that basis, I should go to the statistics before I explain the division. You are questioning the initial adjudication of claims. The statistics by themselves give some understanding of why an administration system has to be somewhat similar to what we are going to have. Obviously, there are always different ways of doing things, but this is the way we have chosen to solve what we consider are the problems and the problems you bring to us.

I will go to the statistics first.

Mr. Chairman: May I ask you something before you give us a blizzard of numbers? Is this

new area of the board in addition to the claims review branch?

Mr. Cain: All the review branches and operating divisions—the claims review branch, the vocational rehabilitation review branch and so on—no longer exist; they are amalgamated into one branch of the new review services division. They will conduct the document review, although there are some significant changes to the way they used to do their work. They are also independent of the operating divisions, and one thinks that may have some useful purpose in their minds.

Mr. Chairman: I cannot resist the next question. Does this mean there has been or will be more people at the board, or have new labels been put on people? What have you done?

Mr. Cain: I could be wrong, but prior to this new division going into existence, I think we had 15 or 16 people in the claims review branch, vocational rehabilitation had two or three, health care had one or two and finance had one or two. In the decision review branch, which is part of the new division, we now have 19 people; so it adds up to approximately the same number of people as before.

Mr. D. W. Smith: It is part of the new branch?

Mr. Cain: It is a part of the new division; it is a branch of a new division. It contains approximately the same number of people. New positions were created and some were deleted with the creation of the new division. If one takes out the offsets and so forth, it comes out to approximately five or 10 fewer overall, so long as you exclude the new external appeals tribunal, which is another number.

Looking at the statistics on pages 8 and 9 of the annual report, there are some observations I can make since they come from the area I am involved with at the moment. I have already said I do not think our statistics gathering is quite sufficient in detail; I hope the new data will be.

The statistics for the claims review branch are on page 8 of the report. One must keep in mind that about half of that total volume of work was sent to the review branch with a recommendation to deny initial or reopened entitlement. Therefore, there had never been a decision communicated outside the board in those claims. The review branch would be the one to do it.

Those denied claims being one half of that volume, I can understand Mr. Martel saying that perhaps there is a problem. One must keep in mind that in that year, 172,000 new lost-time

claims came to the board. I admit that some of them are very simple and just go sauntering through the system; some are very complex, however.

Mr. Martel: I understand that. Having been over this route many times before, I appreciate that 172,000 claims went through and that you got most of them done. We do not have any problems with that group. Where we all get into problems, unfortunately, is the other five per cent; that is what we have never cleared up.

I can recall having lunch 10 years ago with my friend Tony Corbeau, who is at the back, and talking about these problems. The board always uses that game. It says, "Look at how many we have resolved." That is wonderful. Then I say, "But you really screwed up the area you did not resolve." Stephen Lewis used to say to you, "For that small, tough, hard-to-service group, we need the most sophisticated people at the board handling those problems."

Here we are again: "We handled so many well." I agree. I give the board credit for that. It is the group we do not handle well that we muck up in the worst way possible.

Mr. Cain: I am not disagreeing with you that we have problems. What I am trying to address today is the degree of the problem. It was suggested yesterday that we had gargantuan problems.

Mr. Martel: You have.

Mr. Cain: No one is questioning that we have problems. I readily admit they have to be corrected, but I do not think they are quite the size people think. That is all I am trying to point out. By the way, in terms of a more senior group, wherever you put the senior group, it has to see the claim eventually. We have created a new division—

10:30 a.m.

Mr. Martel: Let us be quite frank. You have a gargantuan problem. Today, I bet there are 1,000 people who devote almost all their time to defending injured workers in one way or another. If you were to take the 125 members of this Legislature, a lot of us are right up to here with cases, particularly those from industrialization.

Take a look at the community legal clinics across the province; they will tell you that they cut off the number of cases they take. Take a look at the unions and the number of people they hire full time to handle it; they become good jobs for some people. None the less, they are there. There are the advocacy groups.

What is preventing the system from collapsing out there is that umbrella, which is almost a safety net for the board. You can tell me that you resolve it, but if there were not a gargantuan problem, there would not be that number of people devoting all their time to helping injured industrial or any other type of workers in this province. If it is only five per cent, then one hell of a lot of us are trying to resolve that five per cent.

For 18 years, I have heard exactly the same figure you are throwing around. You can go back and check what Michael Starr, Linc Alexander and Major-General Legge said; they all said exactly the same thing: "You look at that bad number, but look at how many we are good at." It is not good enough. I do not want to get into an argument with you, but I have listened to that nonsense for 18 years and all of us are up to here with it.

A member said yesterday that out of his initial 210 case forms, 124 are WCB. Do not tell me there is no problem. It is gargantuan. We would not be here if it were not a gargantuan problem and you would not have the injured workers' groups. How many people do you think are involved in trying to help injured workers?

Mr. Cain: I personally do not know.

Mr. Martel: No. Maybe you should find out and then you might start to put the problem in proper perspective. I do not want to be insulting, but to say that you do not have a really serious problem is wrong.

Mr. Chairman: Mr. Cain, are you not glad we gave you a warm welcome?

Mr. Cain: And that you are protecting me, too. Thank you.

Mr. Chairman: Proceed, Mr. Cain.

Mr. Cain: Mr. Martel, I will give you the statistics. You did ask for them, so I will ensure that you have them.

I am prepared to agree that there is a problem, which is being and will be addressed. Perhaps we do not agree on the degree, but we will agree that there is a problem.

In any event, half the total volume of claims going into the review branch are new claims for initial entitlement or reopened claims, and there has never been a decision communicated outside the board. This volume comes from 172,000 new claims, I believe it was, for 1984, plus requests to reopen claims. We receive approximately 90 a day.

Another one fifth of that total volume of claims going to the claims review branch is actually

objections submitted by employers to decisions made by the claims adjudicator. Therefore, it turns out that about one third of the total volume of work that went into the claims review branch was because of an objection by a worker or his representative to decisions made by claims adjudicators.

Simply to complete the statistics for that segment, there are somewhere in the neighbourhood of 50,000 active claims at any given time in the claims adjudication branch, and approximately 15,000 pensions are provided each year.

Overall, and I admit I do not have the precise statistic, the review branch actually reversed approximately 25 per cent of all the claims that were sent to it, so for about 25 per cent of that whole case load the decision was reversed.

Mr. Martel: Has that been analysed? Maybe it would be helpful if the board were to analyse those reversals.

What I was trying to drive at yesterday was that we have this great number of problems, but we cannot seem to put our finger on the pulse of what is triggering them. That is why I suggested to Odoardo—and I think the same thing will apply when we have Mr. Ellis here—that we have to try to zero in on specifically what it is. I wonder whether you examined the 25 per cent of the reversals to determine what in fact went wrong.

Mr. Cain: In rather gross terms we have, but not in sufficient detail. That is why I took the opportunity today to pass out that statistical sheet. You will see there we have—I do not know how many—quite a number of issues listed. It is about all the issues you get in claim files.

We also record where the claim came from, the segment, whether it is the claims adjudication head office, a regional office, wherever. We know who commenced the objection, the worker, and then what the decision was. For example, by means of a computer and cross-referencing we could take any issue—

Interjections.

Mr. Cain: It is just a sheet. There are no statistics, they are secret; we are just giving you the outline. What I am trying to describe is, this form we began using yesterday provides us with the opportunity to identify, with any issue, how many times that is coming to the division in a given month or any other interval, how many times we reversed the decision, and whether we inquired more often than we did not before we reversed or confirmed that decision for that issue.

We know where it came from. Therefore, not only are we able to evaluate the issues that are causing the greatest problems and do something

about that, we are also able to look at ourselves. We can look at the people in the review services division and say there is one person who seems to be more restrictive than others in a certain decision, or communicate to our operating division that we notice one area of the division is perhaps handling this issue in a different way than another, if they feel there could be something wrong. I think this report will be invaluable.

We do not have such a thing today. It just started yesterday, but I think it is the kind of thing you are talking about and we are using it now.

Mr. Gordon: What kind of qualifications do you need to be a claims adjudicator?

Mr. McDonald: It varies considerably. A large number have university degrees, a fair number have attended community colleges, and some have moved up from within the organization itself. Generally we are looking for a minimum of grade 13 but most have education beyond that, and considerably so.

Mr. Gordon: Are these people just hired off the street to become claims adjudicators?

Mr. McDonald: No, there is a rather extensive training period of 12 weeks, which consists of lectures and then increasing practical application and then placement on the job where they are working with a senior adjudicator and a team co-ordinator.

Mr. Cain: Page 9 of the annual report describes the statistics for the appeals area, the appeals adjudicator and appeal board. For the appeals adjudicator, approximately 3,300 of that total volume came from the claims services division through the claims review branch. That means up to 18 or 20 per cent of the adverse decisions of the claims review branch were appealed to the appeals adjudicator.

We are not terribly satisfied with the fact it is 18 or 20 per cent and when I get to the new division I would like to describe to you how we think we are going to reduce that.

10:40 a.m.

In any event, it is 18 or 20 per cent and, as the report states, at the appeals adjudicator level they totally or partially reverse 49 per cent of the decisions they look at. That means, in total, they are changing 10 per cent of all the adverse decisions made by the claims review branch.

Mr. Chairman: I think you had better repeat those numbers.

Mr. Cain: About 3,300 claims go to the appeals adjudicator area.

Dr. Elgie: From what larger number?

Mr. Cain: From about 15,000 to 18,000.

Mr. Martel: Those are the ones that are rejected.

Mr. Cain: The review branch in 1984 denied some decision or something the injured worker wanted in about 15,000 to 18,000 claims.

Mr. Martel: Is that claims review?

Mr. Cain: That is right. Of that 15,000 to 18,000, the individuals appealed 3,300 to the appeals adjudicator. When they got to the appeals adjudicator level, about 49 per cent were reversed; say, 1,500 or 1,600. It turns out that is about 10 per cent of all the adverse decisions made by the claims review branch. That is approximate. I admit it is not precise.

Ms. E. J. Smith: How much do you have employers appealing? Is that included in this or is it a separate statistic?

Mr. Cain: I mentioned that about one fifth of the total objections to the claims review branch were from employers. In the appeals adjudicator area, it is much lower. It was approximately 195 or 200 out of 3,600. Employers actually appeal a very small number.

Mr. Martel: While you are giving us statistics, have you any indication as to how many initial decisions are reversed before they reach the claims review stage because of input by the safety net; that is, based on information provided by those who represent injured workers? This would be before making a definite "No." Have you any idea how many decisions would be negative, but because there has been input by a variety of groups the decisions are reversed based on new information provided by us?

Mr. Cain: No, I do not.

Mr. Martel: That is significant.

Mr. Cain: Yes.

Mr. Chairman: Of the 3,300 decisions that were appealed—that is one way of saying it—the decision was reversed for half; is that right?

Mr. Cain: Yes.

Mr. Chairman: About 1,600 or 1,700 appeals were recognized and granted and the other half were denied. Is there something at the board that provides an ongoing review of why it is that high?

Mr. Cain: In the claims review branch, under the old scheme, we saw every reversal of decision by the appeals adjudicators. It was the managers' responsibility to discuss and review them to see whether we could improve our

performance. The review branch members talked to the adjudicators about the reversals.

It is interesting that most of the reversals occur because new information is provided. One could always argue: "Why did you not get the new information? Why did you wait?" However, it is often the worker who provides new information.

On occasion, people would hurriedly get past the claims review branch to get to the hearing where they could appear before someone. Perhaps that is not a good commentary on the claims review branch; I am not sure. I suppose credibility comes in there. Sometimes we were literally not provided with information that was available; not because someone did not want the board to see it, but because they just wanted to get past that level and get on to the next one. I think it often was because they wanted to appear before someone.

Mr. Gordon: Are you saying that the kinds of questions raised by the adjudicator at the first level are what sparked a recollection in the mind of the worker?

Mr. Cain: No, not necessarily, though that may be true; I am not sure. It is also that they literally bring more evidence or information with them; maybe an additional medical report if they go to another doctor.

People often do not seem to recognize that perhaps additional medical information might be worth while from their own perspective. We at the board are satisfied we made a correct decision. If a worker is dealing with a medical question, he might find it appropriate to go to a doctor, some specialist, and get his opinion on the condition.

Mr. Ramsay: It seems to me the inputs into that file originally are rather haphazard. Is there not a standard of the number of inputs that are needed in that file in order to make the initial decision?

Mr. Cain: I am sorry. What I am saying is that you have a claim file where you have, in the board's opinion, sufficient medical evidence—in the case we are describing, obviously it would be a denial—that the medical evidence does not support that the person's condition is related to the accident or whatever.

It could be that when the person proceeds on to the hearing, he brings with him a further medical report from someone else that suggests there is a relationship. That report was not made available to the claims review branch, maybe because he did not go to the doctor at that point. Maybe he did but he wanted the hearing because he can appear before someone. Credibility does come

in. I am not saying this is the only reason. I am simply saying it is a fairly significant reason, that is all.

Mr. McDonald: The other thing that can occur at the appeal board or at the appeals adjudicator level is that when the appeals adjudicator hears the person presenting the case he may request an additional medical examination for a reinvestigation of the claim to clarify some issues. Not all of this is initiated by the injured worker. It is initiated by the appeals adjudicator or the appeal board itself.

Bear in mind you are talking about the allowance or denial of these claims. A lot of the appeals that go to the appeal board could relate to the level of permanent disability where the man has been granted a permanent disability of 10 per cent and he does not feel that is sufficient. It is not a denial of the total claim; it is a denial of the degree of disability. That makes up a fair percentage of the hearings that are held by the appeals adjudicators and the appeal board.

Do not think it is a total denial of the claim; it is partial in a lot of instances.

Mr. Chairman: Mr. Martel, did you have a question?

Mr. Martel: A couple of them; it might even be speechifying.

You say, "Go to see another doctor." That sounds quite simple but you and I both know the board frequently will not even give a man permission to see another doctor. He has a hell of a problem. You can deny this, but to change doctors in midstream is really difficult for the workers.

Mr. McDonald: We do not agree with the change of positions, but the worker has the opportunity to go to any doctor he wants in order to obtain medical evidence to substantiate his claim.

Mr. Martel: Sure. In fact, in Sudbury he can get the Ontario health insurance plan to pay for it, provided he has not lost his OHIP coverage. He has maybe not even remembered to come down here. He has been off for a while and he has not gone to the OHIP office to get OHIP coverage. He does not have coverage for another doctor.

We decentralized in Sudbury and one of the reasons—and it is an important reason but I do not think they are doing it—was that those claims adjudicators would get on the hummer and talk to the physician directly and get that information on a local basis. It was hoped that your people would get to know the doctors and the employers in the area. That is important, but you are not doing it.

I can find and reverse I do not know how many cases. If I can get the information, the question remains, for you and for Mr. Cain, why cannot your staff?

Mr. McDonald: In a lot of instances the physician will not take the time to talk to one of our claims adjudicators.

10:50 a.m.

Mr. Martel: You have a couple of doctors in Sudbury.

Mr. McDonald: We have our doctors contact the physicians. On a regular basis, our claims adjudicators will refer a file to one of our physicians within the operating section and say, "Is this condition related? Could you contact Dr. So-and-so?" and they contact those physicians.

Mr. Martel: In the last two years or less, I took to appeal and won about 50 cases, most of them on medical information. As you heard me yesterday and over the past number of years, my irritation is based on the fact that if I can get it, why can the staff not, particularly the doctors we employ in Sudbury, who know all the rest of the medical fraternity?

They do not even believe them. That is what is wrong. It is nice to talk in theory, but in the real world, you put an office in Sudbury, you have two doctors there—Dr. Wilson, who comes from the local medical fraternity, and now Dr. Gendron, I guess—as well as the eye specialist René Weiss. What are we paying them for, if my assistant, one person, can find the medical evidence and I contact the doctors as an ordinary MPP? Those physicians do it for nothing; in fact, they send cases to me to be helped. Why can your medical staff not do it? That is what they are there for. It is too difficult, that is why.

In Sudbury, when you are caught in a bind and need to see a specialist—let us say it is orthopaedics—it takes three to four months. Workers are sitting out there with no incomes. Do you wonder why they go off the deep end? Their cheques have been cut off, they are told they no longer have claims, and it is going to take three to four months to see a doctor in Sudbury. You wonder why some of us get ratty when all of these roadblocks are in the way.

You have staff who do nothing but WCB cases. My friend the member for Nickel Belt (Mr. Laughren) and I suggested to Lincoln Alexander: "Put one of those birds who work for the WCB in every one of our offices. Let them pick up the claims; let them come and answer to us once they have sorted it out and shown us."

That is where we went ratty. They said that would be too political.

The workers trust us. They do not trust your staff in Sudbury, Toronto or London. It is as simple as that. Until we build that trust, they are not going to go to you, they are going to come to us, and we are trying to help resolve that problem. When I get the stuff I have heard already this morning, I become irrational at times.

Interjection: I agree.

Mr. Martel: I am glad you agree, but I am tired of it. That is why I objected to Mr. Cain's using the same argument I have heard for 18 years. It has not changed anything. Everybody has nice, pat answers, but they are not working.

Can you people tell me what I do with a man with three children who has his income cut off and it is going to be four months before he can see a doctor? I have to get a claims review decision reversed, which means it is then going to take four months to get a hearing. What do I do with him?

Mr. Cain: It is not going to take four months any longer.

Mr. Martel: It is going to take four months to get to see a doctor in Sudbury.

Mr. Cain: I am telling you I will be held accountable for it, and I am quite prepared to be so. It will not take four months.

Mr. Martel: In Sudbury, to see an orthoped takes four months.

Mr. Cain: It will not take that long to have the hearing because I am guaranteeing hearings in six weeks, as soon as we have all the staff on line.

Mr. Martel: You are not answering my question. You have turned the man down. He has to get another doctor's report. It is going to take him three to four months to see either a neurosurgeon in Sudbury, because there is a shortage, or an orthopaedic specialist, and then, by the time he finds out he is cut off and gets to see a doctor, and you have the hearing, we are still talking six months. I have enticed someone else into the argument here. What happens to the family and the worker in that time?

Mr. Cain: When you are trying to get medical evidence, I do not have any control over how long it takes you to arrange for an examination. I am sorry, I just do not.

Mr. Martel: I can get one in eight days in Toronto now. Will you let me send every one of these people to Toronto, to a group who will look

at them? It has nothing but specialists. Are you prepared to do that?

Mr. Cain: I personally am not going to make a policy on that. I am sorry.

Mr. Martel: I can get a person seen in eight to 10 days in Toronto.

Mr. McDonald: We should be arranging our consultations through you.

Mr. Gordon: That is the point that has been raised. Why can we not have that arrangement whereby either they come to Sudbury or the worker goes to Toronto, so we do not have these interminable delays?

Mr. Cain: Do you mean in hearings?

Mr. Gordon: In hearings and in workers being able to get in to see doctors. We do it in the cancer field. We have teams of doctors who come into the north and examine patients and so forth. Why can we not do that for injured workers?

Dr. Mitchell: I think the waiting time to see orthopaedic surgeons is fairly general in the province. It is three or four months. If you have special arrangements at St. Michael's or through Dr. Nethercott—and I think that is a privilege you have no doubt earned—indeed, even if I as a physician were to call requesting that a member of my family see an orthopaedic surgeon, the average waiting time is three or four months.

We have tried to address that with our early admission program, which gets away a little from what you are talking about. But rather than wait those three or four months with the worker doing nothing, not receiving any treatment, we have said, "If you have remained off work for 90 days and have not been able to get back, we will admit you to Downsview and we will have you seen by an orthopaedic surgeon at Downsview." We are trying to address this problem.

Mr. Martel: They do not trust the doctors at Downsview. I am sorry. That is part of the problem. Part of our problem is trust.

Dr. Mitchell: We cannot establish trust. It has to be something that develops between the patient and the physician. But let me tell you that the people they see at Downsview are top orthopaedic surgeons. If they cannot trust those people, that is something I cannot control, nor can you.

Mr. Martel: That is part of the problem with the regional offices. They are good people there. Somehow the workers have to know that when they go to the regional office or the Toronto office they are getting the best service possible

and they are not being jacked around. Unfortunately, I do not think there is one of us in here who has not come across literally hundreds of people who say you cannot trust them.

Dr. Mitchell: I hope to be able to address that a little later when my turn comes.

Ms. E. J. Smith: In support of what the member is saying, but coming at it from a different angle, time is a major factor. In one sense it is outside of the rest of what we are saying here. We can improve all of these procedures, set up our own staff differently and do all these things. We have a problem here in dealing with the medical fraternity and its sense of emergency. The member for Sudbury (Mr. Gordon) said they will do it for cancer, and I was thinking the same thing while you were talking. We realize there is a time factor in abortion, so we cope with it.

Somehow or other there is a separate problem here, as we have to deal with the medical fraternity to get this sense of urgency in time. Because of our system, people can actually have no food on the table or no rent paid because we are delaying them for doctors' appointments. No matter how we improve the rest of this, if we have not resolved this problem, we have not resolved it.

We keep getting back to it while you are going through a different thing, and I think we have to separate it and say it is a major problem. Doctors are not sacred. We have to deal with doctors and make this point, and we have to find a way to do it. If it is, as the member for Sudbury East (Mr. Martel) implies, because they do not trust our doctors, our doctors may feel it is their duty to defend rather than to examine, that would easily set in as a mindset and therefore our people have to go to another doctor and 49 per cent of the time they are successful.

The problem that remains is time. No matter how efficient our system is, if it is that time outside our system that is not being resolved, we must do it. Somehow or other we must confront the doctors and get their co-operation.

11 a.m.

Mr. Ramsay: I would like to get back to this question of trust between the orthopaedic surgeons at Downsview and the claimants. What is the official mandate of the doctors at Downsview?

Dr. Mitchell: Could we broaden that a little more than just orthopaedic surgeons and look at the way the board doctors are viewed by workers and by people at large? This was clearly a

concern I had when I was appointed to my present role. If we are going to do the best for the injured workers, we have to establish a base and a group of good doctors who are respected by the profession at large, as well as by the injured workers and all the universities and colleges.

Since I took over, we have recruited 24 new physicians. Not only have we recruited new people, but they have been people of top calibre. Last month one of the top neurosurgeons in Toronto joined our staff, a man who is a full professor at the University of Toronto. We have recruited surgeons during the last period of time who were chief surgeons at large metropolitan hospitals in Toronto and outside. Recruitment was the first phase.

The second phase was to train the physicians. A lot of those people have been away from active practice for a period of time and they need to have an ongoing program. We have instituted training programs within the board to bring those people up to par, to make sure as best we can that they will give decisions that are right and correct with modern medicine.

We have had to display what we do to outside physicians so they would respect us. Last year, we had our first clinical day at Downsview. We asked questions of the 160 physicians from across Toronto who attended. Ninety per cent of them found it a very valuable day where they were taught by board doctors how to examine backs and how to treat patients with compensation injuries.

This whole program is being built up to establish trust. However, undermining us are comments that we hear. Are the doctors at the board really registered with the College of Physicians and Surgeons of Ontario? We get those letters periodically. This is unfortunate. We are desperately working towards a realization that we are selecting people and doing the best we can.

I do not say that every one of the 72 physicians we have will treat the worker with the sensitivity we might like to see. We have a broad range of people. Out of those 72, we have 32 specialists. Most of them are people with good experience who have been in practice for many years. We have 40 generalists whom we have trained in what we call office orthopaedics so they can examine backs and adjust—

Mr. Ramsay: With great respect, that is not really an answer to my question. I asked, basically, what is the mandate of a doctor who works there? What is his purpose? What is he to do? What is he there for?

Dr. Mitchell: His purpose is to give an expert opinion if he is an orthopaedic surgeon. We now have a full-time orthopaedic surgeon at Downsview who was a senior orthopaedic surgeon at North York General Hospital. We have a number of others who come part-time, many from university ranks. They are at university hospitals or in the larger hospitals in Toronto. Their mandate is to give an opinion.

Mr. Ramsay: Do you know the perception of the mandate of doctors who work for the WCB?

Dr. Mitchell: Yes; I know it very well.

Mr. Ramsay: It seems there is an unwritten mandate, that it is true there is a screening process, but that it is basically a process to disqualify claimants; that is the perception.

Dr. Mitchell: That is absolutely untrue. That would be highly unprofessional.

Mr. Ramsay: I am sure it is and I believe it to be true, but that perception is there.

Dr. Mitchell: Perception by whom, the workers?

Mr. Ramsay: It is mostly by claimants and it is starting with some of us who work for claimants. May I tell you why? What I find in the limited number of cases I have had in the limited amount of time I have been doing this is that there always seems to be a difference of opinion, not only between a family doctor but also a local specialist or orthopaedic surgeon, as the case may be, and a doctor of the same discipline who happens to work for the WCB.

Dr. Mitchell: That is one of our major problems. You get two orthopaedic surgeons giving you different opinions. You have heard the story that if you ask three doctors their opinion, you will get three opinions. That is not altogether a joke.

Mr. Ramsay: However, there is consistency to it. It seems that the opinion against the claimant usually seems to be by the WCB guy, and the orthopaedic surgeon—

Dr. Mitchell: If we have a differing opinion between two orthopaedic surgeons, we generally go to a more senior orthopaedic surgeon to adjudicate the problem.

Mr. Martel: Where?

Dr. Mitchell: In Toronto or in the local area.

Mr. Martel: My friend has hit the nail right on the head. I want to pursue the little point he was making. He is a new member; he has not heard the lines over the years. He is new; five months. I might be jaundiced, but I hope my colleague is not yet.

When the decisions come down, it has been our perception that the board doctor ultimately rules. Even if you read the Ombudsman's reports, that is exactly what he says. Let me quote the Ombudsman.

Dr. Mitchell: I know those cases very well.

Mr. Martel: Let me quote his overall observation:

"Again this year, many of the complaints against the Workers' Compensation Board involve a conflict over medical evidence. The treating physicians are of one view and the board's physicians hold a conflicting view. In the cases that come before me, more often than not the board accepted the opinion of its physicians."

That is the Ombudsman. All the member is trying to tell you and the rest of us is that this is the perception out there. We are not here to try to undercut you. We are telling you what the perception is and why they do not trust you.

I would like to know the policy on how you take it when there is a difference of opinion. Why do you not get back to me or to other members and say: "Let us jointly decide who is going to decide it. To which orthopaedic surgeon are we going to send him in Toronto?" A third, independent assessment, not your choice, because you pick up people like Dr. Ritchie, whom some of us have heard of over the years. I have never met Dr. Ritchie, but my opinion has been that he always sides with the board.

Dr. Mitchell: Dr. Ritchie is a board employee, if we are talking about the same man.

Mr. Martel: Yes, I understand that. But he always sides with the board policy to get rid of them.

Dr. Mitchell: It depends on which Dr. Ritchie you are talking about, the pathologist or the surgeon.

Mr. Martel: The surgeon.

Dr. Mitchell: Okay. Yes.

Mr. Martel: His opinion carries so much weight.

When you have a problem like that, why do you not get back to us and say: "We have a difference of opinion. This doctor says yes; this doctor says no. One is ours and the other happens to be representing your worker. Why do we not agree on a third, independent assessment?"

Dr. Mitchell: We do, sir.

Mr. Martel: Oh, come on. I have taken cases to the board and asked for a third, independent assessment and, led by Dr. Jacobs, they have said to me: "No way. We make the decisions. We

are the board. You forget about asking for a third, independent assessment."

Dr. Mitchell: You will find if you refer to the guidelines we have recently laid down that we have established ways such that if there is a difference of opinion at a top level, we try to take it one more level above that.

Mr. Martel: Does the worker or his representative have any input concerning who that third, independent person will be?

Dr. Mitchell: No, sir.

Mr. Martel: That is what is wrong.

Dr. Mitchell: I would suggest we have a better idea of who is senior and knows the work outside the board.

You have a favourite person whom you do not like in Sudbury, and you say his decisions are always adverse to what you believe. I suggest to you that is a bias.

Mr. Martel: You are darned right it is.

Dr. Mitchell: We look at it on their educational and professional appointments. We get senior people who are recognized at large by the profession and by their patients, not by a person who has had experience, as you have.

Mr. Martel: When there is a hearing at the Ontario Labour Relations Board, they have some say in who the chairman is going to be. If you have an arbitration, both sides have to agree on who the chairman might be. If they do not, the minister might have to appoint one.

Why do you not allow the injured worker or his representative to have a say? Why do you not come to an agreement? It is a question of trust, and you will not accept that. You think, "We know better." We know better that the workers do not trust you.

I am saying you should let those of us out there who know some doctors whom we favour have some input. You are not always going to get your way, but I suspect we will both be a little flexible and we will eventually come to an agreement on who that third party should be. It should not be left exclusively to the board.

11:10 a.m.

Dr. Elgie: I wonder whether I might ask the member if he thinks the new appeal structure with the independent medical assessors able to advise the appeals tribunal and selected by that external review board in an independent way should serve to resolve some of these issues he is talking about.

Mr. Martel: It could.

Dr. Elgie: Because they will not be selected or recommended by board physicians; they will be recommended by a tripartite group.

Mr. Martel: They could possibly be the ones who bring in the third person if they want, or they themselves.

Dr. Elgie: They themselves would be the—

Mr. Martel: What worries me about the present situation is—the member put his finger on it—I am not questioning the ability of doctors in Toronto; it is a perception and until we get rid of some of those perceptions we are not going to resolve the problems.

Mr. Chairman: Mr. Gordon, you have been most patient.

Mr. Gordon: I do not know if I can be as kind as the previous speaker. I would say it is the reality of the situation. I think that is what you mean and we know who we are talking about. I just wonder if you might expand on what you said about physicians who have been out of practice. Can you explain how that operates?

Dr. Mitchell: I am sorry?

Mr. Gordon: You told us about physicians who were out of practice and so forth. Tell us a little more about that.

Dr. Mitchell: What I should have said is that they have not seen a type of case as frequently in their practice. A lot of general practitioners deal with colds, heart attacks, obstetrics, paediatrics. They have not had in the recent past a lot of experience in examining bones, joints, backs, and so they need some retraining in that specific field.

Mr. Gordon: What leads a physician, say a general practitioner, out of one area into the area of WCB work? What is the motivation?

Dr. Mitchell: The motivation is primarily a desire to have a change in their professional approach. They may be tired of what they have been doing. They may have had a health problem that prevents them from carrying on in that field. Those are the two main reasons. A lot of young people we have had recently who have come out of medical school spent two or three years in active practice and felt they wanted a more regulated time frame and wanted to come into an institutional type of employment.

Ms. E. J. Smith: I was very impressed and would like to hear a little bit more from Dr. Elgie. We are talking about good faith and perception. I am not from Sudbury, which maybe takes me away from individual cases. I think it is quite natural, if you get a third opinion that is so

closely tied into the same person who gave one of the first two opinions, it is impossible to overcome a sense of, "They are stacking the deck against me."

In other words, most people would tend to feel that if you hire a third opinion you are also going to support your first opinion. Even in human nature, I would think that way, if I were that person, that a doctor is going to be more likely to be anxious to please the person who hires him, even if it is subconscious.

I am interested in Dr. Elgie saying an independent group is going to appoint someone who will come up with a third opinion. If that is so, to get that perception across to the public is one of the most important things.

Dr. Elgie: I think it is very important. In the original Weiler report, *Reshaping Workers' Compensation*, he proposed a tripartite-type model of physicians, with a physician chosen by the worker, a physician chosen by the employer and an impartial physician. Again, we had the same problem: who picks the impartial physician? Eventually it was decided that the appeal tribunal itself would set up its own process, external to the board, to appoint medical assessors to assist the tribunal in its understanding of the medical issue.

I was just asking the member if there seemed to be a sense that this might resolve some of the disputes that exist. I agree with you, we have to make that process fairly broadly known because there are perceptions about opinions and who gives them and so forth.

Mr. Ramsay: I would like to follow up a little on the question of the quality of the medical staff at the WCB.

I have been aware that there are many esoteric specialties in medicine. For instance, I am aware that sports medicine is becoming a branch and Dalhousie University, for instance, has a course in that. Are there specific courses or specific medical specialties dealing with rehabilitative medicine from industrial and other accidents?

Dr. Mitchell: Yes. We have a number of so-called special clinics at Downsview to deal with special problems. We have a clinic that deals with hand injuries. That is under the directorship of Dr. Jim Murray who is perhaps one of the best known plastic hand surgeons in Canada. The injured worker is very fortunate to have his expertise. We have an amputee clinic which is probably the finest clinic in Ontario in the treatment of amputees. Its director is Dr. Gordon Hunter who is a surgeon at Sunnybrook.

The head injury clinic is under the directorship of Dr. J. C. Richardson who is a very senior neurologist in the city and we have just appointed Dr. Horsey as co-director. He probably knows more about head injuries than most other neurosurgeons in this province. There is a group. There are three others. I will not go into them at this time. This is an example of the type of specialization, the specific views we can get and the expertise that can be there to help the injured worker.

Mr. Ramsay: Because of this highly specialized field, is there really room for GPs at the WCB?

Dr. Mitchell: I think so, because a lot of the problems do not require that sort of specialist input, provided they get the training, of course.

Mr. Gordon: Can you indicate in a general way what a worker would go through who goes down with a back problem? What would happen? Just run through it, for those of us who are new on the committee.

Dr. Mitchell: At Downsview?

Mr. Gordon: Yes.

Dr. Mitchell: First of all, nowadays he would be identified as someone who is unable to get back to work and not requiring any operative intervention. He would be admitted to Downsview within six months of his injury. We have to give the local physicians time to try to do their best for that individual.

When he arrives at Downsview, he is put under the care of a physician at random. He will be admitted by that physician. A history will be taken, all the relevant material documented and an examination done. The physician will then arrange a treatment program which usually involves physiotherapy if indicated; remedial gymnastics, which is to try to tone that person up and improve muscle tone; and occupational therapy, which is designed to help him in performing a routine—not necessarily the routine he would do at work, but a routine that is similar to it.

Mr. Gordon: Could you give us an example?

Dr. Mitchell: If they have a bad back, as the treatment progresses they may be asked to lift a certain weight each day to strengthen their back muscles. They are given jobs to supplement what they are taught in the gym and what the physiotherapist is giving them so that the correct muscles and correct movements are accentuated.

Mr. Gordon: What kinds of jobs?

Dr. Mitchell: As I say, they may be asked to lift some weights, such as sandbags. They may

be asked to sit at a desk and do woodwork. They may be asked to do any number of occupations. We have a lot of multitudes out there.

Mr. Gordon: Why are we not decentralizing some of this stuff to places like London and Sudbury?

Dr. Mitchell: Let me give you Sudbury as an example—

Mr. Gordon: I understand there are certain specialized activities or specialized treatments that people need. We see that in the cancer field, for example, but there is a mid range there and there is no reason why we should have to bring people down at great expense to a major centre such as Toronto.

Dr. Mitchell: We would be delighted to see that initial program given in Sudbury, but I have a letter which I brought along this morning from the chief physiotherapist at Sudbury General Hospital and from Laurentian Hospital, saying: "We are having trouble getting physiotherapists to treat our patients in Sudbury. Last summer Sudbury General had to close the physiotherapy centre down for four months because they could not get physiotherapists."

Laurentian Hospital advised me in that same letter that its waiting list was eight weeks to get into physiotherapy. So you have a three-month or four-month wait to get to an orthopaedic surgeon and at least eight weeks to get to a physiotherapist.

This is the problem. We would like to help. We would be glad to see that treatment given initially, and then only if that failed, to come to the specialized clinic in Toronto. We do not oppose it, we support it; it is the staffing that is the problem.

11:20 a.m.

Mr. Gordon: I do not want to dissuade you too much from what you have just said, but the same thing was said when we were going up to the cancer treatment centre: "There are just no oncologists around; absolutely none." Yet there are three now, there is one in Sudbury and two more are coming to Sudbury. The technicians are being found. I guess it is a chicken-and-egg situation, but I do not buy that argument.

In North America or in Europe they are turning out specialists in various fields. Sure, if you want to find all your specialists and have them come from Toronto, I would probably agree with you. But outside of that, I think we are going down the wrong path. It is fine for you to say you agree with me, but...; it is the "but" that bothers me. I

would ask you to revise your thinking and maybe investigate some other parameters.

Mr. Martel: Dr. Copeman?

Mr. Gordon: Dr. Copeman would find them in a year.

Dr. Mitchell: There are provinces that have legislated means of getting specialists into areas where they do not want to go. Short of legislating physiotherapists to practise in Sudbury—I do not think that is our jurisdiction in the medical services division—it is a real problem.

Mr. Gordon: I do not agree with you on that one. You say it is not your responsibility. It is your responsibility in the sense that if you are really interested in the injured worker, you are interested in his rehabilitation, and having to come to a major centre such as this is not the best form of therapy.

If it is the only form of therapy I can understand that, but it is not the best. We should be thinking about their total lifestyle and their total wellbeing. I do not know whether I am getting that feeling at the moment.

Ms. E. J. Smith: We seem to keep jumping from one problem to another. There are many different problems and so many different solutions. In Sudbury, which you used as your example, you said the place closes down for four months a year—

Dr. Mitchell: No, I said last year.

Ms. E. J. Smith: Okay, but that seems to me a whole new problem that has nothing to do with the work in progress. Those physiotherapists must still be living in Sudbury, so why did it close down? Was it because of funding from a different source? There has to be some other answer. There is a whole problem that you have introduced that seems to me to have had nothing to do with anything else.

Dr. Mitchell: It does have something to do with it, because it does show it is difficult to get physiotherapists. I assume those people moved away.

Ms. E. J. Smith: A whole department closed down? Physiotherapists tend to be people permanently living in an area if they are working in a department. I do not know. Obviously I am not expecting an answer today.

Let us assume that in a city the size of Sudbury there is a physiotherapy department open. Apart from compensation cases, if it is true that there is no physiotherapist in Sudbury for four months, Sudbury has a problem. If there are some available, then the problem is access by this group. We are back to what I was speaking about

earlier. Why do we not find ways to get quicker access?

Mr. Martel: If I might speak on this problem, I talked to Dr. George Walker who, I am sure, signed the letter—

Dr. Mitchell: No, it came from the physiotherapist.

Mr. Martel: Okay. If the clientele of the board is put on a lower level, then what they call active treatment has to take precedence for somebody who is in acute distress, as opposed to a compensation patient who needs some long-term treatment. If you have the two, and you are short of staff, the one who gets short shrift or has to go on the waiting list is the compensation case.

I intervened to get treatment for my own assistant who fell down a flight of stairs. I wanted her back. I was selfish; I needed somebody to keep the compensation cases from my door, so I personally had to go and see the head honcho up there to get my assistant treated. He told me that was the problem, they do not have enough people, so compensation cases take second place.

The member for Sudbury is right and perhaps Dr. Elgie should look into it through Dr. Copeman. If a necessity is identified, then surely through the Ministry of Health—I was not aware of it and neither was my friend the member for Nickel Belt when we met with the regional council, but I think three or four neurosurgeons are coming into Sudbury.

Dr. Elgie: It is three.

Mr. Martel: Is it three? They are bringing in two more oncologists. They have done a super job of recruiting people. With the type of personnel there now, I think you would find it easier to find staff if a determined effort were made to bring that problem to the attention of the Ministry of Health.

I want to ask Dr. Elgie a question. As I understand it, the medical panel will kick in only at the appeal level.

Dr. Elgie: Yes.

Mr. Martel: If we do not somehow kick in that determination sooner, what happens is that the board cuts someone off. It says, "It is time for him to go back to work." Somebody in Toronto has made that decision. It is at that point you need intervention. If you wait until the appeal has been set up, it takes two or three months to get to see the specialist, then it is six weeks to have the hearing and you are going to be six months down the road anyway.

That is a problem the board should grapple with. It should try to get a method of third-party intervention to look at it sooner. It is so far down the road. As I understand it, it is only at the appeal level that they can kick in. There somehow has to be a resolution to that problem.

Mr. Gordon: I am still not satisfied with regard to this question of a rehabilitative centre in Sudbury for injured workers. It is something the member for Sudbury East has talked about in the past. I am not satisfied with the answer I am getting today.

It reminds me of when we first started trying to establish a cancer treatment centre in Sudbury for the northeast. What we were finally offered, after a lot of lobbying and negotiating, was that the individual responsible for that at the time said, "We will give you a tumour registry in Sudbury." A tumour registry; in other words, "We will count cases and that will be a wonderful thing for the northeast."

Mr. Ramsay: One lump or two.

Mr. Gordon: That is right. "You had so many lumps last year and you are going to get so many in the following year." Then there was the idea that you could not get an oncologist to save your life. They had all kinds of doom-and-gloom stories about this closing down and that closing down.

One of the big problems in getting physiotherapists or physicians or technicians of any kind to locate or stay in Sudbury is the shortage of other physicians with whom they can discuss cases and with whom they can work. That is very important in the professional world, as you well know; I am not telling you anything you do not know. However, if you people were to announce that you were going to have a mid-range branch of Downsview in both London and Sudbury, you would find you could attract people. A person would know he was not going to be the only physiotherapist and was not going to have all the cases and be swamped and unable to cope.

In places such as northeastern and northwestern Ontario, the problem is there is not the backup and there is not the resolve from various ministries or from arm's-length people such as yourself to see that there is that backup.

There is a lot of lipservice about. I do not want you to take this personally—you cannot help it—but you have been here in the Golden Horseshoe so long that this is the only world there is for you. North of Steeles Avenue does not exist, even though 90 per cent of the land mass of Ontario is north of Steeles Avenue.

11:30 a.m.

Mr. Barlow: That is hardly for this committee.

Mr. Gordon: I do not want to become parochial. This is all Ontario we are talking about.

Interjection: What? From Steeles Avenue north?

Mr. Gordon: Yes. However, if you were really interested in that injured worker, you would be looking at the situation and you would be saying, as Mr. Martel has said in the past, that we should have a mid-range branch operation like Downsview in Sudbury, and one in London, because we have the two regional offices there.

That would serve the province very well. It would save you a lot of money and would help to rehabilitate that injured worker. You can join Gold's Gym in Sudbury and lift weights. You can sit behind desks in the north. I would like to see more attention given to that. I would like to have a response from the new chairman of the Workers' Compensation Board, perhaps not this morning but maybe this afternoon.

The Vice-Chairman: I am wondering if we should go back to Mr. Cain. We have digressed quite a bit, but it has been very enjoyable, Dr. Mitchell, and I am sure we will be talking to you again. Mr. Cain, will you continue? The format of carrying on the questions is good, but we will try to keep them confined to you.

Mr. Cain: I think I have completed the statistics portion in any event.

Mr. Barlow: Who was talking about that?

Mr. Cain: I had commenced talking about the review services division and mentioning how an objection eventually arrives at the division after it has first been seen by the originator of the letter.

I gave you a very simple chart of the organization of the new division. When the objection first arrives in the division, it goes to the administrative services area where hearings administrators review the claim to make certain all the claims that need to be reviewed because of the issue are present and that the issue is clearly defined so we know what we are dealing with.

They also identify the claim based on complexity and need. It is a very simple coding system. There is nothing very fancy or complicated about it. We identify them based on complexity so we can distribute the claims to the people in an even way. This gives them more time to do their work and they can provide as much time as they have available to the complex claims.

Also, we identify the claim in terms of need, because to me the person who has no money deserves service more quickly perhaps than the person who is objecting to the pension award. Therefore, we try to determine it on the basis of need.

The claims are then distributed to the individuals in the decision review branch. I have already mentioned that the decision review branch consists of the previous review branches in the operating divisions. They have all been amalgamated into this new division; however, there have been major changes in the way they do their work.

For example, when a claim arrives in the decision review branch that issue now is dealt with only by the individual in that branch; that individual carries out all the necessary inquiries. Another important factor is that they now will contact the individuals and/or their representatives by telephone or whatever means is necessary for a personal interview to discuss the issue and any information that is needed to arrive at a resolution.

There are two important things: the specialist carries out his own inquiry, and there is personal contact when appropriate.

After they have completed their review of the claim, if they still feel the objection has to be denied and if that objection is to initial entitlement, a reopened claim or a commutation, the claim is sent directly to the hearings branch and the parties involved are notified that the claim has been transferred there and that a hearing will be arranged.

Mr. Martel: You mentioned the recurrence, I believe. Can you tell me why it is taking so long to deal with recurrences, longer than it takes to deal with new claims.

Mr. McDonald: I do not think that is for Mr. Cain to address, Mr. Martel, but I will be glad to answer it.

Mr. Martel: Fine. I was not sure whose it was.

Mr. McDonald: There is no question that recurrences are a problem. The longer the time between the initial accident, the return to work and the time of the recurrence, the more information has to be gathered.

Yesterday you talked extensively about continuity, and that is very important to address. If a man has been at home for two years or continues his work without any complaint to anyone, we have a difficult time, unless you can medically establish a relationship, to suggest there is further entitlement.

If you have a claim from 1967, where the man is now having further problems in 1985, you have a long period of time to cover. There is no doubt it does take longer. Where the recurrence is within a short time frame, it should not be a long time. I hope it is not a long time, and if you have problems with a short-term claim of recurrence I would like to know about them.

Mr. Martel: We do. I gave you one yesterday as an example. A man was six months back at work and the claim was rejected because he did not go to the doctor for the six months and therefore it could not possibly be related.

Mr. McDonald: Believe me, Mr. Martel, it is not necessarily related in every case; that is a fact.

Mr. Martel: It might well be. This man is a car-knocker. He pulls the top off every cap on a car that needs to be packed and puts oil in it. He is bent over constantly. He works by himself. By what wisdom of Solomon can you come to a negative decision like that after six months and say there is no continuity? Maybe my friend the good doctor can tell me. What do we do? What does the worker do? He never had a back problem until he was injured. Then he was out of work. He went back to work for six months, and all of a sudden he got up and the problem returned right away.

It is part of the suspicion by the board: "He hurt himself moving a refrigerator, did he not? He hurt himself moving a stove. He pushed his car last night. He fell off a ladder." It conjures up all kinds of images in the board's mind of how this guy got hurt. Yet he is a man who has worked all his life. He does not have a history of being a malingerer. The assumption is that they are malingerers.

Mr. McDonald: I disagree with that.

Mr. Martel: Tell me why the board had not even got around to looking at the claim of my poor friend who was off work for three weeks in May and came to see me in August. CN had not even got around to reporting it. Obviously, it was rejected totally. He has only been back at work for six months.

Tell me why a case like that would take three and a half months to get at. How can you say there was no continuity in that case? Then you jump on a heart problem where there is a chest injury, and there had not been a heart problem for 18 months: you can establish that there is continuity? Tell me you are not trying to sell them short.

Mr. McDonald: You seem to have the mindset that the adjudicators are there to deny claims solely. That is not correct. Yesterday you talked about the attitude of the board's staff, and I have to object strongly to your suggestion there is an attitude problem with these adjudicators. Quite frankly, the adjudicators are a damned good bunch of hard-working, dedicated people. Your suggestion to the contrary, I totally reject.

Mr. Martel: It is a matter of opinion. You have to understand that the only cases we see are the rejection cases, and the reasons we see for rejections are so silly at times.

I talked to the new Minister of Northern Affairs and Mines (Mr. Fontaine). He has been the minister for four or five months. He is going crazy with compensation cases up there. You should talk to the member for London South (Ms. E. J. Smith). She asked me, "Are you prepared to have your staff work with my staff to teach them how to fight these cases?" I said, "By all means." Why is she doing it already?

We do not want to be involved in these cases. We do not think it is our function to be involved as social workers. We have to; we have no choice. We see the ones who are turned down. Nobody comes to us, saying, "Happy days are here again." We see the ones that are rejected, and we see the stupidity of the decisions.

Yesterday I mentioned that one man was turned down because he has right tennis elbow in his left elbow. How the hell could something be so stupid? The same orthopaedic surgeon did the surgery both times. Tell me why your staff could not go and find that out from him, as I did. He is in North Bay; he is not even a constituent of mine. He lives in Powassan. I spoke to the orthopaedic surgeon in North Bay. Your guys will not believe him. When I get a letter saying the man has right tennis elbow in his left elbow, you wonder why I get excited. Who could make such a silly decision?

11:40 a.m.

Mr. McDonald: I cannot respond to your question without knowing the facts of the case.

Mr. Martel: We went to appeal. I gave you a whole bunch of cases, all which have been won. I illustrated 10 cases in one letter to Mr. Alexander alone, and we won them all. If we could take 10 cases, as I mentioned in my letter, fight them systematically, find the medical evidence and have them reversed, why can the claims adjudicators not do that? Why is it left to us? That is my question to you.

Mr. McDonald: All the claims adjudicators are instructed that they are to do everything

possible to get information to allow a claim. I speak to every group of adjudicators as they join the board. That relates to the adjudicators from head office and to the adjudicators from Sudbury and London, because the training program for Sudbury and London is also carried out at head office.

I advise them that the Workers' Compensation Act is there to extend the benefits to the workers. At no time are they instructed they are to look for ways to deny a claim. They go out of their way. They spend a lot of time on the phone; approximately 40 per cent of the claims adjudicators' time is spent on the phone, contacting witnesses, employers and physicians to get information to allow those claims.

Mr. Martel: I simply ask you this question: if I can find the information that resolves so many cases, why can you not? In the case I mentioned of a man working six months as a car-knocker, I was able to find that information. My secretary simply said to my assistant up north, "Since the man works alone, and he had made an appointment to go in April"—and did not because his back got better; so that meant only five months—"why not question some of the people he knows, or at least talk to them?"

Mr. McDonald: I would have expected the adjudicator to have done that.

Mr. Martel: But he did not.

Mr. McDonald: The adjudicator was wrong, and I am fully prepared to say that the adjudicator was wrong. You talked about the attitude of adjudicators; you made a broad, sweeping statement in that respect. If you come across any adjudicator or claims personnel who you feel has an attitude problem regarding the treatment of injured workers, tell me about it. I have not heard from you on that problem for years and years.

Mr. Martel: I am never going to turn in a worker. That is not my function.

Mr. McDonald: Why not? If you think he is doing something wrong, how am I going to know about it if you do not tell me?

Mr. Martel: I would never turn in a worker. That is not my function.

Mr. McDonald: However, you want me to correct a problem I am not aware of. How do I know that the adjudicators, in your opinion, have an attitude problem? They do not express or show that attitude problem in any dealings our supervisory people have with them.

Mr. Martel: The number of times we have to phone your office in Sudbury is an indication. The minister, when he was trying to get away

from dealing with the indexing problem, volunteered in the House to do a study in Sudbury. My office, Mr. Gordon's office, Mr. Laughren's office, the Steelworkers' office, the Mine, Mill office and the legal clinic are all bogged down.

Mr. McDonald: How are you suggesting that is an attitudinal problem with the adjudicator?

Mr. Martel: It is the type of answers we get when we talk to people; we get a negative response. One woman who worked for me four months said, "I cannot stand this job." Her name is Marylou Smith, if you want to contact her in Sudbury. "I deal with that compensation board, and I am absolutely convinced they are there to try to cut people off."

Mr. McDonald: I totally refute that.

Mr. Martel: I am simply telling you what an observer who worked for me for four months says.

Mr. Chairman: Ms. Smith is next.

Ms. E. J. Smith: I am only here in passing in a sense—perhaps I am having extra difficulty for that reason—but I think it is important to try to get a hold on the whole system, as it is ideally being set up, and then to look at the abuse situation separately from that and how it might be corrected.

Hearing there may be some people with attitudinal problems, which I can fully agree with, maybe the brand-new statistical record that is going to be kept will help find problem areas. I am interested in whether that will be true. If we find certain areas have more reversals and more individuals who are wrong, I hope that will show up in this and be corrected.

Mr. Cain: The statistical report is basically a management report, the purpose of which is to identify the issues that most frequently come into the review services division as well as to identify any anomalies that seem to be occurring in the decisions being made at the board, both within the division and outside it. We feel it is useful in that way.

Ms. E. J. Smith: I hope this will be a useful piece of information. I also hope we get a chance to look at the whole thing as it is ideally, because only then can we see where it is falling down.

Mr. Martel: Will we get a copy of the managerial report?

Mr. Cain: I was not intending to do that, no. I was going to utilize it myself.

Mr. Martel: It would be nice if we saw what was going on.

Mr. Cain: That would be a decision of someone more senior than myself.

I want to emphasize that if the decision review branch member denies the objection, and that objection was to the initial entitlement, the reopened entitlement or a commutation, the claim will move directly into the hearing branch, and the parties involved will be informed that it has been sent to a hearing branch for a hearing to be arranged.

In all other cases where the objection has been denied, the decision review branch member will write a letter to the worker and/or representative outlining the reasons and again providing the worker with the brochure and the services available. Then it is up to the worker, if he wishes, to object to the hearing branch afterwards.

If the person had asked for access at the time the original decision was made by the operating area, any additional documents that would have come in when it was in the decision review branch will be sent to the person so he has an update on his access.

At the hearing branch level, I have already said the claim is identified as to complexity and need. What we intend to do is to telephone all parties to set the hearing date. We have a very selfish reason for doing that. We are trying to cut down on the number of postponements. In 1984, the rate was 25 per cent. This year, it is running about 30 per cent or a touch more. Postponements, added to our own problems, create long delays in hearings. Postponements are almost equally serious to all the other problems we have, if not more serious than them.

We are going to utilize that statistic sheet in the sense that once every few months, or perhaps once a year, we are going to run it to establish who is causing the greatest number of postponements. If we identify such a representative we will phone him and ask if he can do something about it, because it has an adverse effect on all other injured workers and their representatives. We think that is a fair and just way to do it, if we meet the objectives we are setting out for ourselves.

In setting these hearing dates, we are going to recognize the level of need. The worker who is not receiving money will get an earlier hearing than someone else. I mentioned, and I will bring it up again, that as soon as we have all the staff—the old system is slowly being turned around, and we have to get staff from that system; we will have them fairly soon, I hope—we intend to achieve a six-week interval

between the date a person objects to the hearing branch and the date when the hearing date is set.

11:50 a.m.

I have been told that people frequently are not ready for anything earlier than that. However, if we can do it earlier, we will. We are striving for six weeks now. That is our objective, and we intend to meet it one way or another.

The decisions by the hearing officers are going to be somewhat more detailed than previously, detailed in the sense of the issue, not irrelevant information. We want the decision to contain the issue, the legislation or the policy of the board which has to be addressed by the person; then the facts from the file which the hearing officer thinks are important and the facts obtained at the time of the hearing relating to the issue; next, the interpretation or adjudication of the facts; and finally, the decision.

If the hearing officer does not grant the objection, attached to that decision will be a brochure provided to us from the external appeals tribunal outlining the worker's right to appeal to it. That completes the review services division.

There is one additional thing we will be doing. All claims coming back from the external appeals tribunal will be reviewed. We are going to review them to understand where they change our decisions and why. If it seems to be something consistent, then it is something we will have to look at and say, "Should we not be making the same kinds of decisions they are?" It is rather pointless if the worker has to go on to them to get entitlement.

We have an obligation to look at it under section 86n of the act. I hesitate to mention it. I doubt if we will use it often. The board does have the right to stay a decision of the external appeals tribunal. Likely it will not happen very often, but we have an obligation to look at it and make the board aware that perhaps it might want to take action if we feel the external appeals tribunal has gone outside policy.

I do not think that is the most important reason. The most important reason for us is to understand when they change our decisions and why, and whether it is the sort of thing we think they will continue to do or whether it is something peculiar to that particular claim, and then to change our policies to fit it.

Mr. Ramsay: Is this type of performance monitoring a new procedure for the board?

Mr. Cain: Not entirely; in the claims review branch we have always reviewed the reversals of decisions by the appeals area in order to understand it. We will do it a little more intensely

than we have before. That is everything on the external appeals tribunal.

I want to address the problems you identified yesterday and try to describe how this new division should address them.

There was concern expressed about the length of time it takes to obtain access to a claim file. I have said we are striving for a two-week time interval there, from the date we receive the request for access until the date the material was mailed out. We are putting forth a standard of two weeks.

We are providing it earlier than before in the sense that it comes immediately after the operating area's decision. We no longer request an undertaking, as we did in the past. Previously, an injured worker or representative would write the board asking for access, at which point we would write back asking them to sign an undertaking. That undertaking indicated they would use the documents for no other purpose than an appeal before the Workers' Compensation Board. No longer does that undertaking exist. Therefore, we have saved ourselves at least a few weeks.

Mr. Martel: A gentleman, a former employee of the WCB who is now heading up his own little consulting firm, has a letter from a company saying this man "has access to all files involving all injured workers from our operations." I have the letter. The union has come to me from London.

Mr. Cain: I am sorry. It says that we would automatically provide access?

Mr. Martel: Yes. The company has told the board that it should give this man access to all of the files involving all the workers. He is a former employee of the board in London.

Mr. Cain: I am not sure. What the company may have written to say was, "This person is a representative of our company; please recognize him as an official representative."

Interestingly enough, we got a letter—I just was told about it before I came down here this morning—from someone who never was an employee of the board but who simply said, "In all claims that I appeal I want a blanket access," period. We are going to write back and say, "I am sorry, but in every claim you are going to have to ask for access."

Mr. Martel: Are you going to do the same for this company?

Mr. Cain: No, we are not.

Mr. Martel: I am not sure that we ever opened up the access to files so that a company can do

this. What this individual is doing, quite frankly, is that he spends a week researching a case. I believe his first presentation to the board was 35 close-spaced typewritten pages. Management gives him \$15,000 per case. He goes down to the library—having worked for the board, he knows what he is looking for—and he starts to dig.

There is nobody who can compete against that sort of intervention. No union, none of us, will ever be able to devote that kind of time, a full week in a library digging out every bit of medical gobbledegook with which to defeat a claim. This individual adjudicated some of those claims, was involved in some of those decisions, and is now the head honcho for a corporation that says, "Give him access to all files involving workers in this company."

Mr. Cain: Under the section of the act for access, it states that we will provide records to the company or to its representative under certain circumstances. All the company has told us is that this person is an official representative. They cannot have access to every claim file in which there is an objection unless they specifically request that particular claim file.

I might mention that under the new access policy we provide access only when a person requests it, not under any other circumstances.

Ms. E. J. Smith: Could we clarify what you are saying here? I assume that if I am injured I can write to you and get access to my own file.

Mr. Cain: Not until, according to the act, there is a disputable issue. That is why I said the operating area writes to you when it is an adverse decision to your entitlement.

Ms. E. J. Smith: I am assuming that, as an individual, I can get only my own file; I can not ask you for 10,000 people who had the same injury.

Mr. Cain: The only people who can get the file are parties involved in that claim.

Ms. E. J. Smith: Yes, but why is the company representative not under the same requirement? He is appealing one individual case so, even though he represents the company officially, he should have access to only that one case that is under appeal.

Mr. Cain: That is correct, and that is the only one they can have.

Ms. E. J. Smith: Is the member implying that they could get other cases?

Mr. Martel: The company wrote to the board. I have the letter filed with the Minister of Labour (Mr. Wrye). I think there is something wrong, quite frankly, that a former board official, on

leaving his job with the board—and who is attempting to hire other board people right now, I am told—is out there fighting those same cases on which he has probably adjudicated. There is some kind of conflict there.

My friend the member for Yorkview (Mr. Polsinelli) says he does not think there is anything wrong. I think it is perverse. It is not just wrong; it is sick. The federal government has said, "These people cannot act on behalf of anyone for two years."

Mr. Polsinelli: Would you have the same objection if this ex-adjudicator were representing workers on a case?

Mr. Martel: He did not make a decision on their behalf.

Mr. Polsinelli: I am just asking if you would have the same objection.

Mr. Martel: He did not make a decision on their behalf. He did not sit on some of the cases. He was not sitting there saying yes and no to these cases and is now coming back and trying to reverse a decision he might have said was yes at one time.

Mr. Polsonelli: You did not answer my question.

12 noon

Ms. E. J. Smith: Legally, we might be going way beyond our potential rights to suggest we might be able to write in a clause of X years. Maybe it is something we should be looking at. In almost every profession you get people who acquire expertise and go out and use it in a particular way. We have a right to look at what access they have to the files. I completely agree with this.

In city council, we deal all the time with people who have been on city staff and who then go and set themselves up in business to represent people appealing city policy. I am sure you see the same thing. I am sure it happens in every line of business. There is a limit to how you can allow people to be curtailed in using information they have acquired.

The access to materials is very pertinent to us. They should get only what the individuals can get.

Mr. McDonald: We do have a conflict-of-interest policy with senior staff, but the individual you are talking about would be below the level where the policy would normally come in. You would have a problem restricting him, as Ms. Smith has suggested.

Dr. Elgie: On that point, if the person who had gone into private consulting and was applying for

that file had been the adjudicator who had made the decision, would you identify any conflict in a case like that?

Mr. McDonald: I would have to look at the case very carefully. It would appear there could be, but I am not aware of such a case having occurred. However, we will examine the type of cases he is coming forth on.

Dr. Elgie: That would be a minimum criterion one should look at. If the person who is representing somebody made the decision, there should be some thought given as to whether he should represent that individual.

Mr. Cain: There is another thing we are trying to do to minimize the time delay in getting access. When the form enclosed in this brochure is completed and sent back to the board staff who deal with mail, it will be clearly identifiable to them that it goes to the review services division. That in itself will probably save a day or two.

The other thing is that part of the delay in the past has been caused by the claim file not being available simply because other activities require the file. This is a perennial problem. However, we are now discussing and becoming involved in a priority system. It will ensure that we will get the file earlier. For example, if the claim is going to be paid, that will take precedence over access. However, other activities would not. We feel this will substantially help our problem.

Also within the access area, we have resolved the speed with which we can develop copies. We can now do it within one week. Therefore, people in a priority system are more apt to let you have something if they know they can get it back in a reasonable length of time. We intend to have it back to them within one week.

We have had one high-speed copier for a long time at the board. With the appropriate operators, it has been operating 16 hours a day. That is not enough because last year access increased by 3,000 requests. This year, it is higher. It was 10,000 last year and it is well up this year. Within the last few weeks, we have brought in another high-speed copier. With the appropriate operators, it is also running 16 hours a day. So we have two copiers running 16 hours a day. As of this morning, I am told we are up to date. We are going to try to keep it that way. These are the things we are doing to try to resolve that objection.

Another thing you mentioned was the time between receiving an objection in the board and the day the worker or the representative is informed of the hearing date. I believe it was Mr.

Gordon who said, in his experience, it might be as much as nine or 10 weeks.

There are two factors we feel will eliminate this time lag. If the original objection was to initial entitlement, a re-opened claim or a commutation, and the person who made the decision at the review branch cannot grant the objection, then it goes straight through to the hearings branch. That eliminates delays there.

The priority system we are putting into place for access is also going into place for this purpose. We expect to get the claim file within one week. Therefore, within five or six days from the date the objection is received, we should be able to telephone the interested parties and arrange a hearing date.

Another concern expressed is the time it takes from the date the hearing is scheduled till the actual date of the hearing. Currently, that time interval is 12 weeks. We got it down as low as eight weeks, but it is back up now. Though it is not as bad as it was, it is still not very good. We intend to solve this problem in a variety of ways.

I want to mention that we travel to seven cities in the province and the backlog of claims will not be any greater in those cities than it is in Toronto.

Also, I believe Mr. Martel mentioned yesterday that the claimant first got a letter telling him there would be a hearing and he would be told at a later date when it will be, and then later he got a letter telling him the hearing date. That will no longer occur. The first phone call will be, "Is this a suitable hearing date for you?"

We will be travelling to these centres as often as is necessary. It is not necessary that we have five or six claims in order to go to a centre. We will go with whatever number of claims we have to ensure that we provide that hearing in the time span I have described. We are going to phone everyone because we wish to minimize the postponements. We feel that will reduce this time lag right off the bat. We are increasing the number of hearings officers to 24, which certainly is a reason we can reduce it.

I am saying that overall the standard is going to be set at six weeks from the date we receive the request for a hearing in the board until the actual date of hearing. We are going to strive for that and try to achieve it at the earliest possible date. We are not achieving it today and we are not going to achieve it in the next month or two; I know that. We are going to achieve it before we meet again next year.

These were the main concerns expressed about delays within the appeals system and this is some indication of how we intend to resolve them.

I would like to comment on one other point that was brought up yesterday. You mentioned section 21 of the act. That is actually a section that is administered by the external appeals tribunal, not by the board. They are the ones who are going to have to provide the policy on it. The board has nothing to do with that section. In a sense, we do not even know there is a problem until we get a decision back from the external appeals tribunal telling us what to do.

It states there that an employer can ask a worker to go to a doctor chosen by the employer for examination but that the worker and/or the employer has the right to object to the external appeals tribunal within 21 days of the notification by the worker that they will not appear before the doctor.

It is interesting—this is simply an observation because I do not know what the policy will read—but it would seem to me that perhaps the worker need only say, "No, I am not going to the doctor." There is nothing else the worker really need do. There is no penalty by the board for his not going to the doctor.

Mr. Martel: Not by the board. There is no penalty by the board. The fear is, what about the company?

Mr. Cain: Oh, yes.

Mr. Martel: We do not know what is going to happen there.

Mr. Cain: I can appreciate you could have a fear that the company might retaliate in some way. I do not dispute that. I am saying, purely from the policy, the worker could literally just say no and it is up to the employer to object or else nothing will happen. He will never go to the doctor and that is that.

As for the fear of what might occur by way of some reaction or retaliation by the employer, that is a point the external appeals tribunal is going to have to address when it develops the policy. We spoke to them briefly the other day to ask them, when they get their first case, to ensure we have a policy so we know how to deal with it when they send over their decision.

12:10 p.m.

Mr. Martel: My concern is that with that sort of policy it is almost like the time we were dealing with the occupational health and safety bill. Let us use the lead assessment as an example; the employer uses the information not for the reason of protecting the employee but maybe to get rid of him. I am sure the former minister, who was heavily involved in that, was

aware of that and of the sensitivity of the company doctors or doctors hired by companies.

As to how that medical information is going to be used, I am not sure, after the Krever report, whether that is legal. If I write to the Ontario health insurance plan to try to find out something about a patient at the request of the patient, they refuse to divulge any information to me. They will not even communicate with me, but will write the person who has come to me.

We went through that when Krever did his study on protecting medical information. I wonder if a company has a right to the medical information involving an injured worker. That worries me.

Ms. E. J. Smith: It seems to me there is a difference there. In this case the company is almost like the defence in a legal case, because it is going to be paying the bill. In looking at the other side of it and recognizing there is going to be the odd person who is going to abuse the system, how could a company ever defend itself against a charge without having information on an individual case?

Mr. Martel: They are sending them to their own doctor. What worries me is how that medical information will be used. That is what triggered the whole Krever study. Medical information was getting into people's hands and being used improperly. Is that not what triggered that whole study?

Ms. E. J. Smith: Let us take the case of a murderer who is getting psychiatric information. I assume that if you are getting medical information for a case, and that is an acknowledged reason the company would be sending him to a company doctor—who is only one of three doctors, I am assuming—since it is part of a legal case, it is open. It is not the same as going to your doctor for a personal medical reason.

Mr. Martel: But obviously they want that medical information to determine whether—I mean, how is it going to be used?

Ms. E. J. Smith: You have three doctors. You have two people on two sides. I assume—

Mr. McDonald: There are not three doctors; there is only one.

Ms. E. J. Smith: At this stage, by the time you get a company getting a company opinion, surely you are at the stage where you are not going on just one doctor. I am interested in Mr. Martel's contention that one doctor represents one position. If a company is getting information from a company doctor, I assume that is only part of the medical information that is available to the

panel. As I say, it is more of a legal situation than a straight medical situation.

Mr. Martel: The ramifications for that section, at least for the people I have spoken to in the trade union movement, is giving them tremendous concern. That is why I asked Dr. Elgie to take a look at it; his government was involved.

The whole thing that triggered the Krever study was the confidentiality of medical information, how that information was being obtained and how it was being used. I do not know whether it is legitimate. I just raise it and flag it because I am not sure. Maybe Dr. Mitchell can answer; as a doctor, he understands the whole area of confidentiality. I worry about that section. The more I think of it, the more I worry about it.

Dr. Elgie: Once you open the access to any party with respect to an appeal, the confidentiality issue is—

Mr. Martel: But they are sending him to a doctor.

Dr. Elgie: I understand that. What I do not see in this section is who is to receive the report, whether the report is forwarded only to the employer or also to the board and the worker. I do not see that in this section. Who gets copies of the report?

Mr. Cain: There is nothing in the section, as you say. Certainly, the compensation board does not. We are not involved in this in any way until someone goes to the external appeals tribunal and it makes a ruling and tells us about it. It would appear the employer could have a copy of the report and then provide that, I assume, to the board. I am sorry; that is when the board would get it.

Dr. Elgie: The only way the worker would come to know of it would be if it were presented at the hearing. Is that right?

Mr. Cain: No. If he attends for the medical examination, he has not objected nor has he refused. Therefore, there is no reason for this issue to go before the external appeals tribunal.

Dr. Elgie: I understand that. I am asking, under subsection 21(1), who gets a copy of the report. You are telling me it is the employer.

Mr. Cain: Yes.

Dr. Elgie: The only way the worker or the compensation board review panel would know about it would be if it were used as evidence at the time of the hearing?

Mr. McDonald: If the man reported for the examination and the physician provided a report to the employer which supported the employer's position, it would be submitted to the board, not to the appeals tribunal. It would be submitted to the board in support of any objection it might have to the decision that had been made in that claim. At that time, if the board made an adverse decision based on that report, it would be available through the access policy.

Mr. Martel: However, the report could be used not to take a man back to work. The purpose of sending him to the company doctor is what worries me. Is the purpose to get rid of him, to say, "He has a bad back and we cannot re-employ him"? in which case he is out the door. Perhaps I am being overly suspicious, but I have a concern that such a report could be used against the worker.

That was the problem with the lead assessments. That is why we said, "Go to your own doctor." He helps to repair you or get your blood levels down and so on so you can go back to work. However, you do not give the employer that report; it is private and confidential and could well be used against him. If it is a lead poisoning case, and the level does not get low enough, the company could say, "No, we are not going to take that employee back again." It could be used by the company in that way.

It is the use of the report that worries me; nobody is trying to hide medical information that is relevant in determining a worker's injury or illness.

Mr. McDonald: You will recall the Ontario Human Rights Code was amended to prevent discrimination on the basis of disability. If you are getting into that, you are getting into a provision of the code rather than of compensation. I am just telling you that is where the amendment is and that is how it will be addressed.

Mr. Martel: However, the royal commission that studied asbestos said that where there is no union involved, anybody who pushes health and safety will be dismissed. There are a million reasons why you can get rid of him; that was in Mr. Dornens's report from Carleton University in Ottawa. He said in the royal commission study, "You can find any reason for getting rid of an obstreperous worker."

I understand what you are saying. However, the use of that medical evidence conjures a lot of bad memories in my mind.

The Vice-Chairman: This may be supplementary, and it is important, but perhaps it should be brought up in another forum.

Mr. Martel: I hope the chairman will get some clarification of precisely how it is going to work. Perhaps it should be referred to someone else to see if it is legal.

12:20 p.m.

Dr. Elgie: My understanding is that the first part of section 21 has been part of the act for a long time. The new part is subsection 2, which gives a worker the right to object and to have a hearing before an independent appeal tribunal. Subsection 21(1) is not new, although it was not in the original white paper draft, as I recall; it was taken out. The whole section was eliminated but it was later put back in, and I have no knowledge of the reasons for that.

You are talking about a legislative problem here as opposed to a problem you are raising with the board; you are talking about decisions that were made about amending that section and leaving it in, and those do not rest with us.

Mr. Martel: Perhaps we should ask the Attorney General (Mr. Scott) to look at that section. Based on what came out of the studies done by the former government on the confidentiality of medical information, perhaps we should ask him if that is kosher.

I knew it was taken out. I am told there was tremendous objection by the employers, who were adamant that it had to go back in. The board obviously had recommended, and the Ministry of Labour had agreed at one time, that it should not be in there, but tremendous objection by the employers put it back in.

We should ask the Attorney General to have someone look at it; he may choose not to, but I suggest we ask him.

The Vice-Chairman: Are there any further questions?

Mr. McKessock: Just before these gentlemen leave, I would like to back up a little. There was talk about whether MPPs should notify the board if someone employed by the board is not doing his job. I totally agree with Mr. McDonald that we should. I think it is part of our responsibility.

If we have knowledge and the facts through our constituents that a certain employee of the board is not doing his job properly, we should be responsible enough to let you know. That applies not only to the Workers' Compensation Board but also to any ministry. If an employee is not doing his job properly, it is our responsibility as members, backed up by facts through our riding and constituents, to say the person should be replaced.

It is similar to a situation where one of us witnessed a bank robbery and took the robber's licence number as he left the bank and the police came along and said, "Did you get his licence?" and we said, "Yes, I did, but I am not going to give it to you; it is your job, you go catch him." Not providing you with the evidence is similar to not providing the police with the evidence.

I did not want you to leave here thinking that all members thought we should not assist you in correcting some of these problems that are out there.

Ms. E. J. Smith: Just for clarification. I assumed earlier the person who wrote you would not be ratted on, so to speak, as the person seeking compensation. When I hear you talk like that when you are talking about the employees of the compensation board, I do not know what was intended.

Mr. McDonald: That is the reference I was making for Mr. Martel.

Mr. Martel: First of all, it has to be judgemental. I have injured workers who come to me and curse and swear at individual case workers whose integrity I know is upright. I am never going to be put into a position of making a judgement on behalf of my own perception with respect to a worker whom I might have a bias against. I am never going to allow myself the luxury of getting angry and picking up the phone and saying to John McDonald, "Get rid of that dog." That is not my role.

Mr. McDonald: If you personally had dealings with an adjudicator, an investigator, a hearings officer or any board staff member who gave you or your constituency assistant a hard time, why would you not discuss it? It is not a judgement thing then.

Mr. Martel: It is a matter of personalities. My assistant might get on famously with 95 per cent of the people in the board office in Sudbury—

Mr. McDonald: Even 75.

Mr. Martel: No; 95. We do not have any real problems with them in Sudbury in the sense that they work hard; it is just that we differ with the results that we see coming out in the end in a written letter. We can talk about the Phil Polifronis, where somebody puts in a letter a comparison between Sudbury and here, which I think is atrocious.

Mr. McDonald: We are trying to address that.

Mr. Martel: Sure. I simply make the point that we can get along with 95 per cent of the people, but I cannot allow my personal bias or my own anger, or that of my assistant, to

jeopardize someone's job. I would never allow my assistant to do that, nor would I give myself the pleasure of saying, "God, I got you, because you are just a—" There are biases that develop.

Mr. McDonald: I am not necessarily going to accept your allegation that the person is a bad apple; but if I hear it from you and then from somebody else, I have a problem and I want to find out about it. I would like to hear about the problems. I know you are not going to do it on a regular basis, but if you have a real concern, tell me about it and we will address it. That is all I am saying.

Regarding this fellow you are talking about, the reason for the comparison with the construction job in Bruce was that it involved a particular piece of equipment being used on that job. Rather than do a further investigation, we got the data from the ministry as to the effects of that particular piece of equipment—not the job itself, but a particular piece of equipment.

Mr. Martel: The reason that was wrong was that Mr. Polifroni had been working with that kind of equipment, some of it old and broken down, in small construction firms across northern Ontario for 18 years. To make a comparison based on that type of equipment as opposed to what Hydro would have—which would be the best, because Hydro goes first-class with everything—is simply wrong. There is also the time length: 18 years. You would have no idea of what kind of equipment Phil Polifroni worked with for 18 years; some of it might have been rickety, some of it might not have been in good shape and might have vibrated like mad. To make a comparison—

Mr. McDonald: I cannot go back and find the equipment that he used 18 years ago.

Mr. Martel: Then you take a look at the medical evidence which says the man has white-hand syndrome.

Mr. McDonald: I can take a look at some of the equipment he has been using, the effects of which I know.

Mr. Martel: That is what creates the suspicion, my friend.

Mr. McDonald: The very same thing applies in cases where we accept what the history is for a particular plant. You asked us to accept the history for all the employees within that plant, or with that piece of equipment. In the case a jackleg, for example, we do not go out and check every jackleg where the guy's exposure is a result of using a jackleg. You accept that. Yet now, because in this case we found a particular piece of

equipment that he was using, you seem to object—

Mr. Martel: No. You made a judgement that he was using the same piece of equipment for 18 years.

Mr. McDonald: No. I do not agree with that.

Mr. Martel: You had to. You cannot make a comparison with someone who has been working for only nine months. Your own policy on white-hand syndrome is that you have to be working a certain length of time before the effects appear. We happen to disagree, because I have talked to a number of doctors. However, your policy is that you have to be working there for two years prior to making the application.

The Vice-Chairman: I would like to interject and say that possibly you would allow Mr. McDonald to look up that information over the lunch period and we could resume. I hesitate because I know it is a concern, but we are getting into specifics here.

Mr. Martel: I am not trying to get into specifics. I am simply saying that the examples I threw out yesterday are too frequent. The Polifroni thing was ridiculous. Maybe you can tell me what the board policy is.

The Vice-Chairman: Mr. McDonald, would you like to make your point?

Mr. Martel: This guy had only been there nine months—

Mr. McDonald: With that particular piece of equipment.

Mr. Martel: You made the comparison with that piece of equipment. He had been there only nine months. Your own policy says it has to be two years.

Mr. McDonald: But I know what his other exposure was—

The Vice-Chairman: Okay, gentlemen, I would like to adjourn this committee until 2 p.m. Thank you.

The committee recessed at 12:29 p.m.

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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament
Wednesday, October 2, 1985
Afternoon Sitting

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC



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Vice-Chairman: Ramsay, D. (Timiskaming NDP)

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Elgie, R. G. (York East PC)
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South, L. (Frontenac-Addington L)
Stevenson, K. R. (Durham-York PC)

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Gordon, J. K. (Sudbury PC) for Mr. Bernier
McKessock, R. (Grey L) for Mr. G. I. Miller
O'Connor, T. P. (Oakville PC) for Mr. Elgie
Polsinelli C. (Yorkview L) for Mr. Sargent
Smith, E. J. (London South L) for Mr. Ferraro

Clerk pro tem: Decker, T.

Staff: Madisso, M., Research Officer, Legislative Research Service

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 2, 1985

The committee resumed at 2:07 p.m. in room 228.

Mr. Chairman: We will commence our afternoon session. I believe Mr. Cain had finished and we were getting ready to listen to Mr. McDonald.

Mr. Martel: Mr. Chairman, I have to leave for a meeting, but Mr. Cain said he had answered all the questions. To summarize, he was talking to John about claims adjudication. My friend Mr. Ramsay and the chairman will keep track of them; so when I come back I will know if they answered all my questions. I have to leave for a 2:15 meeting for a very few minutes, but I will be back.

Mr. Barlow: Shall we wait for you?

Mr. Chairman: No. Mr. McDonald, I understand you were going to respond to some of the issues raised by Mr. Gordon and Mr. Martel.

Dr. Elgie: I want you to speak directly to them.

Mr. J. F. McDonald: Mr. Gordon raised a question regarding the decentralization of additional functions. I know Mr. Gordon, Mr. Martel and particularly Mr. Laughren will be interested in my response having to do with the decentralization of the pension function.

We have completed our review of that matter. It is our intention to decentralize the pension rating function. I would anticipate it will probably be January 1, 1986, before we are able to implement it because it will necessitate the training of staff in the regional offices in Sudbury and London.

In addition, the chairman mentioned further decentralization. When those offices are opened, the pension function will certainly be an integral part of them as well. I am sure you are interested in that response.

Mr. Chairman: Anything that increases the empire of Mr. Corbeau is of interest to me.

Mr. J. F. McDonald: Do you have any comment, Mr. Corbeau?

Mr. Martel and I had a discussion very briefly this morning about the attitude of the adjudicators. He asked specifically if they are taught to cut off a claim if it is complicated. I really believe he asked the question with tongue in cheek

because I am sure he knows that does not and would not occur and would not be condoned. There is no way.

Mr. Chairman: Now you are being provocative.

Mr. J. F. McDonald: No, I do not believe so, sir.

Dr. Elgie: Have you ever seen him trying to be provocative? He can do better than that.

Mr. J. F. McDonald: Mr. Martel also asked about an internal study or evaluation taking place to examine problems at the initial adjudication level. What we have done in initial adjudication is attempt to isolate those claims which require some type of inquiry. All the initial adjudication is done within one self-contained unit in head office. Mr. Corbeau can comment on the function as it relates to the regional offices.

As soon as an accident report is received from the employer, it is identified as to a lost-time or no-lost-time claim. The lost-time claims receive priority. They are given to a group of adjudicators. There are six adjudicators and one team co-ordinator. Their sole function is to determine from the employer's accident report whether the claim can be allowed on the basis of that report. If it can, they will put the information on that file which is sufficient to allow it.

It then goes to our records management branch to identify whether or not there is any prior documentation which might have set up that claim before the employer's report of the accident was received. If it is not, the claim number and firm number are assigned. It is then processed through our system and payment is issued the following day. This is about 40 to 50 per cent of our claims volume.

When the primary adjudicators identify a claim where they cannot make an initial decision, if there is only a piece of information missing concerning a return-to-work date or earnings information, we have a group of telephone staff that will make the call to get the return-to-work date. They will call the doctor or call the employer to get that information. It is hoped the payment that can be made will be the final payment and that will be the end of the claim.

If the claim cannot be allowed, it is then referred to an initial adjudication team. There are

10 teams to do this initial adjudication. There are three junior adjudicators, one senior adjudicator and one team co-ordinator. The work is assigned to them by complexity, depending on the experience level of the adjudicator.

I have to indicate that the experience level of the adjudicators is not substantial. We have experienced some movement within the claims adjudication branch because of the creation of the claims services division and other areas within the board. It has increased the demand, and we have lost some adjudicators to other positions within the board. I will talk about investigations in a few moments because that is one area where we lost some adjudicators.

In any event, it is the sole function of those adjudicators to make the inquiry in an attempt to determine entitlement for that initial lost time. They utilize whatever method they have to. I mentioned this morning they spent a good deal of their time on the telephone making calls to try to get that information to adjudicate the claim, whether it is calling the employer, the worker, the physicians or the witness.

I mentioned the problem we experience with physicians. If Mr. Martel can get a consultation with an orthopaedic surgeon in eight days, he really should be on our staff. We cannot do it. I do not know how we could do it. Dr. Mitchell commented on that.

Mr. Chairman: I think Mr. Barlow has a question for you, Mr. McDonald.

Mr. Barlow: I can wait until he has finished with his responses.

Mr. J. F. McDonald: One problem we experience in contacting physicians' offices is a reluctance to discuss the patient over the telephone with someone else. I guess it is a case of their concern for the confidentiality of the patient and their concern for privacy and access to their files. It can create problems in attempting to obtain that information. When the adjudicator wants to allow that claim he can do so on his own, he does not require a second signature.

Mr. Martel talked about the benefit of the doubt and the suggestion that adjudicators are not allowed to use benefit of doubt. That is not correct. It is now in the act, whereas previously it was a policy. It is now stated in the act and the adjudicators do use it.

Because of the experience level of the adjudicator, you are normally getting into a more complex claim when you are involved with the benefit of the doubt. They will make a recommendation to the team co-ordinator that the claim be allowed extending the benefit of the doubt, so

it may be seen that they are not personally using it. However, once the team co-ordinator is satisfied with the skill level of the adjudicator, then certainly he can do it on his own without referring it to the team co-ordinator. Part of the quality control program of the team co-ordinator is to analyse the recommendations coming from the adjudicators to determine how they are progressing.

Mr. Chairman: If the adjudicator approves the claim, does the team co-ordinator see it?

Mr. J. F. McDonald: No, not unless the adjudicator wants confirmation of his own recommendation or if he has some question about it, but generally an adjudicator will approve it on his own. We do have a quality control program in place with the team co-ordinators, who are constantly reviewing the work of the adjudicators.

Mr. Martel raised a question concerning a policy to limit access to benefits at the adjudication level. There is no such policy. I encourage the adjudicators. I speak to each group as it joins the board. Maybe it requires some reinforcement. Generally, the injured workers you are dealing with do not have big bank accounts. They do not have anywhere else to go for funds. Those are the specific terms I use for the adjudicators. I urge them to make every possible inquiry they can before they say no.

One cannot in every instance say yes right away. You do have to make some inquiries. There is no question about that. In effect, when a man has an accident—there are exceptions—some employers continue to pay him his salary while he is off, but that is the minority. The man looks to the board for his paycheck. In effect, we become his employer. We pay him. If he does not get his money, he is concerned.

Mr. Gordon made a comment about what he saw as an air of defeat among the people he saw in the Sudbury office. I assume that is the area he referred to. If you come into our office or go to Sudbury or the Canada Employment and Immigration Commission's office or any service agency office, you are not going to see a smiling clientele. They are not there because they are happy. They are there because they have a problem. We attempt to resolve that problem. Yes, generally speaking, I will accept that you are going to see those types of people sitting in the office. I hope and believe that some are smiling when they leave the office. I feel that is the case.

Mr. Martel talked about a case where there were seven or eight investigations done in a

particular claim. I would have to assure you that is the exception. I cannot honestly recall ever having seen, in over 30 years with the board, where there have been seven or eight investigations in one claim.

He also talked about the problem of reviewing these handwritten notes of the investigator. Our investigators have not written their notes since 1965. They all have dictation equipment and they do it by telephone from the area. They send it in and it is transcribed over the phone and typed. I am not sure exactly what he was getting at in that area. Perhaps when he comes back, he can clarify it.

While I am talking about investigations, we have recently increased the number of investigators in head office from 19 to 27. There was a backlog of investigations. Part of those 27 came from the claims adjudication branch. There were five of them. Because of the expertise we were looking for in the investigator, fairly senior adjudicators went to that job. That hurts adjudication, experience levels within the adjudication area, but it certainly helps the investigators. We do not have to do as much training on the type of information they are required to gather.

Our backlog of investigations is now about 400. I hope that by the end of November—the director has advised me in this—that the claim will be listed for field investigation the week after it is received in the investigation area. I believe we can accomplish that with the staff we now have in that area.

He talked about more than one investigator being involved in the investigation of a claim. This can occur. If an investigator goes to an area to gather information, a physician may not be available; a second call may be necessary to the physician's office or to see a witness or to see the injured worker. Rather than hold that claim until the next time that investigator goes back to the area, it is possible a second investigator could be assigned to pick up that information. There could be more than one investigator involved in a claim. The norm is one investigator on a claim.

Mr. Chairman: Are you going to deal with continuity, Mr. McDonald?

2:20 p.m.

Mr. J. F. McDonald: I talked about continuity this morning. I agree that recurrences take longer to adjudicate. The longer the time between the return to work and the recurrence, the more difficult the adjudication problem. Not always. It depends on the disability. I would have to agree it takes longer to adjudicate if he returns.

There was a question concerning a particular type of rejection, in which we do not await any information from the injured worker. That has to do with policy document 33-22-02 and rejections G2(21), (22) and (23). It is true those decisions are made without obtaining a report from the injured worker.

Those cases are mostly like this: a report is received by the board, generally from a hospital emergency department or a treating agency, and the employer advises us when we request an accident report from him that the accident did not occur at work. The accident occurred while the man was on his way to work or at home. There was no relationship to the employment.

We advise the injured worker of the information provided to us by the employer. However, we also advise him to let us know if he has any reason to object to that decision. I assure you there is no problem. This is not a change. This type of rejection has been done since 1955. It is not a recent change in the board's procedures. I was not sure why it was being raised at this time.

Mr. Martel talked about the United Auto Workers and their concern with respect to earnings calculations. When we set the compensation rate, at least when a claim is allowed, we send the injured worker a form letter, H(1). I have a copy of that letter if the clerk wishes to make copies for committee members. There is a paragraph in it relating to how the payment has been calculated.

Since April 1, when Bill 101 came in, we have not had many inquiries concerning earnings. We have regular meetings with the UAW compensation council and it has not raised that as an issue with us. I do not know where Mr. Martel's suggestion that they raised it with him is coming from. I checked with our counselling specialist who has contacts with the UAW and it has not been raised by them with their contacts. I would be glad to pursue it with Mr. Orr, who is the UAW compensation council representative, and see where it is coming from.

Mr. Martel wondered about instances of late reporting. I have some data. In 1984, we issued 18,131 charges for late filing, involving a total of \$575,796. From January 1 to June 30, 1985, we issued a total of 10,680 charges for a total of \$334,777.90.

When we identify any employer who has been deficient in reporting, we arrange for a contact, either in person or by telephone, to advise him of our concerns. We will check that employer's general reporting practices to see how he is complying with that provision of the act and

arrange a visit to spruce up his reporting practices.

Mr. Chairman: To make sure I understand that, during the first five months of 1985, you had 10,000 charges.

Mr. J. F. McDonald: We had 10,680 charges.

Mr. Chairman: Rounding it off, you had 10,000 charges and the total fines which flowed from that were—

Mr. J. F. McDonald: Almost \$335,000.

Mr. Chairman: That is about \$300 for each.

Mr. J. F. McDonald: Each individual charge can run anywhere from \$25 to \$250. Without going back to do further research, it would be difficult to give you specific figures.

Mr. Chairman: Out of the 10,000, not all of them would be fined, would they?

Mr. J. F. McDonald: Yes. Those are charges issued against employers.

Mr. O'Connor: How much is collected?

Mr. J. F. McDonald: It appears on the assessment. In so far as I am aware, it is all collected.

Mr. O'Connor: Surely there would be a high rate of default since in most cases those who do not make their returns are companies that are going out of business and that sort of thing.

Mr. J. F. McDonald: That has not been our experience as far as the charges are concerned. It is added right on to the assessment notice they are provided with and they are paid. I would have to go back and review the compliance with the payment, but I am not aware of it being a problem.

Mr. Chairman: Mr. McDonald, would this be an appropriate time to take a short hiatus? The minister has something he would like to announce.

Mr. J. F. McDonald: It would be a pleasure.

Hon. Mr. Wrye: Thank you very much, Mr. Chairman, I appreciate the opportunity to break into the committee's deliberations and make an announcement which I know you will find important with respect to your deliberations and the directions the government is taking.

It gives me great pleasure this afternoon to announce to you here the names of eight new appointees to the corporate board of the Workers' Compensation Board. The appointments were made this morning by cabinet. It is particularly appropriate for me, as Minister of Labour on behalf of the government of Ontario, to make

these names public in the first instance before this committee, which spent so many months of fruitful discussion leading to the eventual passage of Bill 101.

The addition of external directors to the WCB corporate board has been, as you all well know, one of the major procedural reforms of the Workers' Compensation Act passed at the last session of the Ontario Legislature.

The worker representatives on the new expanded and more open corporate board are Charles Bud Clark, Canadian director of the Amalgamated Clothing and Textile Workers Union; Gérard Dacquier, Canadian director of the United Steelworkers of America; Joseph Duffy, secretary of the Building and Construction Trades Council; and Clara deCarvalho, an injured workers' consultant and community worker.

The four management representatives are Honourable Robert Stanbury, PC, QC, chairman of Firestone Canada Inc.; Douglas Peters, chief economist and senior vice-president of the Toronto-Dominion Bank; Dr. Elizabeth Kaegi, medical director and director of occupational health and safety for C-I-L Inc. and, I might add, a member of the ministry's advisory committee on occupational health and safety; and Steven Hessian, resident manager of Domtar Inc. in Red Rock, Ontario.

I should like to add that an additional director representing the public at large will be announced in the next few weeks. If any additional information is needed by members of the committee or by the committee in general, we would be pleased to provide more details on the appointments I have announced and which the Premier (Mr. Peterson) announced today.

Mr. Chairman: Could I ask you a brief question? These are eight new directors. How many are there in total now?

Hon. Mr. Wrye: There will be one additional director and, of course, added to that list will be Dr. Elgie as chairman and Mr. A. G. MacDonald as the vice-chairman of administration. The vice-chairman of the appeals tribunal, Ron Ellis, sits on the corporate board as an ex officio member.

We have, in effect, used the maximum of nine appointments. The legislation, as you know, provided for between five and nine appointments to the corporate board and we have chosen to use the maximum of nine.

Mr. Chairman: Are there any questions from the members of the committee?

Hon. Mr. Wrye: I should just add one thing. I believe Professor Ellis is coming before the committee tomorrow and at that point he will be making announcements of appointments that have been approved today. I will let him make those announcements of appointments to the appeals tribunal, as vice-chairman and also sidesman on both the labour and business side.

The process is not completed, but as you will see tomorrow, we are well under way. Once the tribunal is set up and the training sessions, which Ron will describe to you, are complete in a short while, we will certainly have the manpower to get the very important process of the appeals tribunal under way as quickly as possible.

Again on those, as you will find tomorrow, I am delighted with the quality of the appointments, not only of the vice-chairman but also of the sidespeople representing both business and the worker groups.

Mr. McKessock: What is the length of the term of these appointments?

Hon. Mr. Wrye: It is three years.

2:30 p.m.

Mr. Barlow: Are they staggered for the first term in order that they do not all expire at one time?

Hon. Mr. Wrye: They have not been.

Mr. McKessock: Can they be reappointed for a further term?

Hon. Mr. Wrye: I believe the legislation allows for that. It allows for the reappointment of members of the corporate board and, I believe, for the WCAT, the Workers' Compensation Appeals Tribunal.

Mr. A. G. MacDonald: It provides for term appointments with a possibility of reappointment.

Mr. McKessock: For a further three years?

Mr. A. G. MacDonald: A maximum of five years.

Mr. Chairman: I have a staged question—I mean it is in stages. What proportion of claimants at the board is female?

Mr. F. J. McDonald: I do not have that statistic. We will get it for you.

Mr. Chairman: Would it be infinitesimal? As society changes, there are going to be more because of the nature of work. The corporate board does not reflect that at this time.

Hon. Mr. Wrye: It does. Without getting into details, we have gone through a difficult process of trying to balance a number of interests in choosing the corporate board. Without getting into specifics, as of late last week there was an

additional female member for the corporate board and for a variety of reasons that individual was unable to accept the appointment. A replacement was found.

As we look for a ninth appointment we will have in mind that only two of the eight are women. You will see some reflection of the point you are quite appropriately making in the vice-chairman of the Worker's Compensation Appeals Tribunal. That is not reflected in the sidesmen. That is one reason I indicated that as we moved forward in the appointment process of sidesmen, I wished to hold back certain appointments so we could ensure we had some female representation as sidesmen on both sides. In fact, in discussing this matter outside this room with your colleague the member for Sudbury East, I made that point to him last night and asked if he had any thoughts along that line.

I do not know the figures either. I suspect the male-to-female injuries ratio is imbalanced, but I suspect, as probably all committee members do, that the imbalance is quickly shifting. If you were to expand your question, and I do not know whether you ought to, it might be useful to see where it was a few years ago and how the imbalance is shifting. That might be useful to know. Maybe I am anticipating you.

We are trying to address that. You will note that in appointments we have also attempted to address a number of other communities of interest. The members will know from our discussions surrounding the white paper that we have attempted to have on the corporate board a number of people who represent areas of expertise so they can bring that to the corporate board—financial, occupational, health and that kind of thing—specific people who have great knowledge of the injured workers' community, etc.

That is the other part of the balancing act we have done. I sometimes think the Legislature should have provided for a wider number than nine, although with the addition of yourself, Dr. Elgie, and Mr. MacDonald, the corporate board might have been a little unworkable or unwieldy. Your point is well taken, Mr. Chairman.

Mr. Chairman: Mr. McDonald indicated he could provide us with some numbers that would perhaps show a trend.

Mr. J. F. McDonald: One comment I will make regarding the male-female relationship of the claims adjudicators is that it is about 55 per cent female. It is fairly heavily—not heavily, but it is certainly increasing in that area.

I mentioned the explanation to the injured workers. I think it would probably be better if tomorrow I brought copies for the committee because it is bilingual, English one side, French the other. I will have them available for the committee so members can see exactly what is there.

In 1984, 22 per cent of the lost-time injured workers were female.

Mr. Chairman: What you do not know at this point is how that has changed in the last five or 10 years. Is that easy to get?

Mr. J. F. McDonald: If you want it, you will get it.

Mr. Chairman: Are there any other questions concerning the appointments to the board?

Mr. J. F. McDonald: Mr. Martel also raised a question having to do with the time limit on supplements. Generally, supplements are granted for a period of 12 months, but they are subject to extension, depending upon the circumstances in the individual case. It is granted as a temporary supplement, as an aid to rehabilitation.

The claims adjudicator depends a great deal for these supplements on reports from the rehabilitation services division. Certainly, if there is an end in sight, by rehabilitating the worker or continuing a rehabilitation program, the supplements will be extended. The initial granting is normally for a period of 12 months.

Mr. Polsinelli: Is there any board policy with respect to the number of years an individual can receive a supplement?

Mr. J. F. McDonald: We do not generally go beyond 36 months. It is there within the act as a temporary supplement and it is intended as an aid to rehabilitation. If you really have not got something in line after a period of 36 months, the possibilities of what is going to happen after that time—but it can be extended beyond that, depending upon the circumstances and the individual client.

Mr. Barlow: What is the notification period for supplements ceasing or being cut off?

Mr. J. F. McDonald: We advise the injured worker when the supplement is originally granted of the period for which it is going to be granted and ask him to advise us of any change in his employment circumstances during that time. About six weeks before the supplement is due to expire, we initiate a further inquiry to determine what action is taking place as far as the injured worker is concerned. If we have not completed our inquiry by the end of that time, we will

extend it on a temporary basis until that inquiry is completed.

The notification to the worker gives him sufficient time to understand that his supplement will be ceasing as of a certain date.

Mr. Barlow: What I am getting at is that a number of people come into my office, and I am sure other members' offices, and say, "They have cut off my supplement yesterday, with no notification." Is it correct there is no notification?

Mr. J. F. McDonald: Generally speaking, no, that should not occur. I am not saying it never occurs, but we try to advise the worker in every instance that his supplement will be expiring on a particular date.

Mr. Barlow: Did you say you try to advise him six weeks ahead of time?

Mr. J. F. McDonald: We initiate the inquiry about six weeks ahead of time to make sure we have completed our inquiry by the time the supplement is due to expire.

Mr. Barlow: When you are making that inquiry, do you advise the worker why you are inquiring, because it is winding down?

Mr. J. F. McDonald: Generally, it is a contact through the vocational rehabilitation services division, but claims will also ask the worker what his current status is and what he is involved in. There is a contact made so they know what is going on.

Mr. Barlow: This is one of the things the people say in my office. I just want to have some response here to find someplace to go to appeal that.

Mr. J. F. McDonald: If you have instances where you feel we have not notified the workers, I would like to be made aware of it so we can find out what is going on and why it is not occurring. The policy does call for the workers to be advised.

I think I have addressed most of the issues that relate specifically to adjudication. I talked about the recurrences and why it takes so long.

Mr. Corbeau had some issues that were raised that relate specifically to regional operations.

Mr. Corbeau: Before I begin to respond to some of the items that were raised yesterday, I would like to make a clarification for the benefit of all the committee members.

2:40 p.m.

The regional operations and area offices actually comprise 12 offices throughout Ontario. During most of the discussion this morning and possibly part of yesterday, the references were

always to the regional offices. We actually have area offices in Hamilton, Kitchener, Windsor, Ottawa, North Bay and Thunder Bay. Another version which is really the same as an area office—they do the same kind of work—is the offices in St. Catharines, Kingston, Timmins, and one attached to the Sudbury office as a satellite, which is in Sault Ste. Marie.

When we are talking about the regional offices, we are talking about the two, the first in Sudbury and the second in London, but there are 10 others throughout the province which primarily support a lot of the functions carried out through head office.

Mr. Chairman: In keeping with your history, your record of building an empire, are you trying to turn those into regional offices, Mr. Corbeau?

Mr. Corbeau: No and no to both of your comments. We have 12 offices now, which I believe are properly and strategically located throughout the province. They are designed to serve the population and anybody who has any dealings with the board from the various areas outside what we refer to as the central region.

Roughly, the central region goes in a circumference from around the mid-point to Kingston up through Peterborough, Parry Sound and back down around Georgian Bay and the Halton area. Everything beyond the central region would be in what we call one of our area office territories.

Many of the members, for example, have constituency offices. Their ridings are in the same territory where we would have one of the area information service offices.

If I may get back to the discussions concerning the two regional offices, I know a lot of the remarks made concentrated on Sudbury, probably because of the composition of the committee which comes heavily from the north, at least as far as the two regional offices go. Please keep in mind that many of the things that I say hold exactly the same for London.

When we were talking about the initial adjudication of claims, which Mr. Martel and John McDonald were discussing, the same function is carried out in both Sudbury and London. Because of the fact there is a smaller volume of claims to be handled in each of the regional offices, compared to what we would see at head office, the initial claims adjudication is done by the same claims adjudicator who would look after the adjudication of no-lost-time claims, and also what they call primary adjudication. John McDonald explained about carrying out the prompt adjudication of a claim on the basis of the employer's report. Those three

functions are done by a single type of adjudicator in the regional office.

Beyond that point, the claim would move on, if more than one initial payment of benefits was to be paid, to one of the continuing adjudicators. Therefore, in that respect, they are almost identical from that stage on to those in head office.

The claims adjudicators from the regional offices come through the ranks, so to speak, from local staff, transfer from other points in Ontario to a regional office or are hired—I heard the comment raised today—off the street. We have an intake of staff from many areas. Many are from local areas, and I am sure that is the way it should be.

Their initial training is carried out at head office. That is to make sure the principles of adjudication are routinely taught and enforced with all adjudicators. We would find it very undesirable—I am sure I could speak for anybody involved in the compensation process—if we followed a different standard and different principles of granting entitlement to benefits just because of the place where one person lives compared to another. We want to have consistency with our decision-making.

We also want to see if we can improve the quality of adjudication throughout the province, no matter where a person happens to live or work. Apart from their initial training, the adjudicators move off to their own offices, be it Sudbury or London, and the continuing portion of their training is taken on from that point by local staff.

After that, the offices function almost identically with what you see at head office, understandably with a different total volume of claims managed. Although the adjudicators in regional offices have some seemingly minor but very important differences, the adjudicators in Sudbury and London deal almost exclusively with their clientele, with the injured workers whose claims they are managing, adjudicating or discussing with them. That is possible because the territory, naturally, is smaller than the whole province, which is mostly managed from head office.

The adjudicator will talk to his or her client on the phone routinely, be it for the initial entitlement decision or for other problems associated with a continuing aspect of that claim: late payments, further medical appointments or inquiries about other board services such as rehabilitation and health care benefits, and to answer questions such as when the client might

be seen for a pension. We certainly try to have the adjudicator handle as much of that as he or she can.

In most cases the adjudicators will see each worker who comes into the office to discuss the claim, perhaps on a casual basis—when I say “casual” I do not mean the discussion is casual; I mean a drop-in as opposed to a prearranged appointment—instead of having a receptionist, counsellor or one of our staff in the area offices who would see a local client on behalf of the head office personnel.

I personally have not seen the look of defeat. I believe it was Mr. Gordon who mentioned that yesterday. I am sure that what John McDonald says is true, whether at head office or anywhere else throughout the province. People who have difficulties are not going to look happy; everybody does not stitch on a smile because he is visiting one of the board's offices. Neither am I pretending they limp in and leap out, because we do not cure every problem, obviously. But I think most people will find they do get some satisfaction in talking to their representative, be it the claims adjudicator, the rehabilitation counsellor or the health care benefits personnel in our own regional offices.

We certainly try to maintain the high standard. That has been encouraged. It is all part of the routine instruction at head office. It has been a tradition at the board for many years, in fact, to have high standards of adjudication. We do not say this just to pay lipservice to it because it is a nice, catchy phrase. It is impressed upon all of the staff, whether they are claims adjudicators per se or whether they are involved in the process. We know it is one of the most essential decisions one can make as a board representative on behalf of the board involving a person's life, because many of these people are going to have ties with us for years to come, some of them for the rest of their lives.

I do not think we are insensitive in any way. I certainly will acknowledge that we are human, we will make mistakes; and when mistakes are brought to our attention, we will do everything to correct them and set matters straight as quickly and as painlessly for all concerned as we can.

Apart from the adjudicators and the quality of their handling of cases, there is a lot of pressure on them, too, because nobody wants to feel his individual claim is getting second-rate service. I can fully appreciate that any injured worker feels his or her claim at the time is urgent and is the one that should be acted upon today and that the payment will be sent out promptly, not only the

initial award of compensation but each continuing cheque.

I think all of you here are aware that the board tries, in a continuing compensation claim, to pay those cheques every two weeks. This is becoming harder and harder to do, because we are also at the mercy of a lot of the problems associated with mail service and with our own internal routines, which do require some paperwork. Nobody is going to kid anybody on that score. We do need forms and we need medical data.

But on the basis of obtaining some of that medical information, maybe I can make a point about something Mr. Martel was following up on this morning. It is routine, not just a rare exception, that a claims adjudicator, in dealing either with an initial claim that has not been adjudicated or a continuing claim that is about to fall behind in payment, gets on the telephone and speaks to the worker's doctor, chiropractor or whoever the health care professional might be who has some information that may assist us in either adjudicating the claim or keeping it up to date.

I am not implying this is done only by the regional office staff. It is also done by the adjudicators at head office, who will often enlist the help of our personnel in the area offices to contact local medical people or to do whatever they can do to expedite the payment of benefits.

2:50 p.m.

Mr. Martel, I can certainly vouch for the fact that we do indeed try to obtain that information, but it is a fact of life that it is getting more and more common, especially with doctors and specialists, to ask for a lot of the detailed information to be furnished in writing. That is the change we have seen in the last decade or two. It is a situation we have to live with, the same as anybody else.

There are times when it will seemingly grind the process to a halt, especially where the person on the other end of the phone talking to our adjudicator says, “I cannot understand why you are not going to pay my claim or keep the payments up to date in this case.”

We are doing our best for the person, but at times our efforts are not seen and are not always productive. However, I want you to fully understand, please, that we make the attempt and it is part of the adjudicator's routines in trying to keep the payments up to date and to adjudicate claims promptly.

Mr. Martel: There is a chart of approximately how long it is going to take for that person to

recover. It plays a very important role, serving as a guide in the adjudication.

Mr. Corbeau: Yes.

Mr. Martel: If the doctor's chart falls outside of that time and the worker is out longer than anticipated, there is a great flow of mail, calls or so on instituted. This is leading many doctors not to want to deal with the Workers' Compensation Board.

Interestingly enough, I have a very good rapport with members of the medical profession in Sudbury. They refer the cases they cannot crack to me. They ask me to handle them and send me entire files. They say: "We are going crazy with forms from the board. That is why we do not want to handle it. They do not trust our decisions. They do not trust us as medical people."

As you know, I was invited to speak to people at WCB in Sudbury from a member's point of view. People there said to us: "You can get a medical form from a doctor any time you want. You can get insurance or anything you want; and you do not even have to go to work." That was told to us. That is from claims adjudicators. If they are making that allegation, it means somebody mistrusts doctors somewhere.

Because of that, doctors have become resentful. They do not think their medical ethics are being appreciated and honoured by the board people. Therefore, they are opting out; they do not want it. I can name you half a dozen doctors in Sudbury who do not want to deal with the board. They have signs on the wall right now saying, "I will not take a WCB claimant." It is too difficult. They tell me there are too many forms and problems. They do not want the hassle even though their pay is higher through WCB. It is considerably higher, at least 30 per cent, I guess. Is it \$115 instead of \$90?

Mr. Corbeau: It is maybe 25 per cent.

Mr. Martel: They do not want it; they do not want the hassle. They say it is too difficult to deal with the board. That is what doctors tell me.

Mr. Corbeau: You have taken me a long way from an initial adjudication question with what you just covered.

Mr. Martel: It is part of the adjudication. What happens is they cut workers off.

Mr. Corbeau: I would like to try to respond to some of this in some of the order you presented it.

First, you referred to the chart. I believe it is still called the Referral Reference Guidelines. You picked the right word; they are guidelines. It shows the approximate length of time within

which a standard disability is expected to recover. These are not hard and fast rules which any adjudicator or the boards' medical personnel are taught, coerced into, instructed or even hinted at as things that must be followed, such as, when a fractured finger, which is a straightforward, simple fracture, reaches the point of six weeks, one cuts off benefits or calls in the worker immediately for a medical examination. That is not followed.

You will find more often than not—and I would hope even the adjudicators to whom you may have spoken would vouch for this because it is part of the instruction that is given—these referral guidelines are to assist, not in cutting people off compensation but in making sure the worker gets adequate treatment if there is any chance the one already rendered is not going to lead to the best recovery.

In the guidelines chart there are references to when one should consider specialist appraisal, admission to the Downsview rehabilitation centre or other modes of treatment. These matters are referred quite routinely to the section or the regional medical advisers, who work very closely with the claims adjudicators, to answer the question of whether there is anything else that should be considered from a treatment standpoint.

This is when our doctors will either telephone or write to the treating practitioner to discuss the case and find out what else perhaps should be done. A lot of that is done routinely. Specialist's appointments are set up or another examination with somebody else. Perhaps arrangements may be made for admission to Downsview. However, this is not a magic formula for seeing that peoples' claims are cut to the quick just because this or that disability has extended beyond some magical guideline.

As for the business of doctors having a lot of paperwork in dealing with the board, I believe that is true. It is generally accepted no matter where one is in dealing with a system of workers' compensation. However, we do our best to minimize the number of reports a physician, his secretary or whoever is preparing a lot of the paper has to submit to the board to keep a worker's claim up to date or to assist us with the adjudication.

Granted, there is a payment structure that calls for a fee higher than what is paid by the Ontario health-insurance plan. Part of that relates to the additional paperwork. However, I do not believe we have taken a great segment of the medical community and others such as chiropractors and

other health care professionals and turned them off to the point where they are routinely saying: "I do not want to deal with the board any longer. I do not want to handle WCB cases because there is too much paperwork, too many hassles, too many arguments and too much of my time taken up."

That may happen in some instances, and I am not denying that for a moment, but it is not a routine thing. We simply have to do the best we can with the tools at our disposal. When I say "we," I mean John and I, with the claims adjudicators and other personnel at the board.

We encourage the staff to make use of the telephone because you will find that many people would prefer to spend a couple of minutes—and we do not want to run through the whole case history from A to Z—talking about what the future prognosis is, whether any treatment is being rendered, or whether this worker is still disabled; thank you, go ahead and pay the claim up to date; instead of having to get yet another form, which sometimes can mean another unnecessary visit by the worker. Often, the worker getting a progress report has to set up an appointment with the doctor.

We are concerned about some of the inefficiencies that could otherwise result if we just dealt with paper in and paper out to get the work done. At the same time, we are going to alienate some people to the point where they feel it is not worth the bother. However, that is fortunately not the norm and it is not a generalized thing.

If an adjudicator said to you, Mr. Martel—one in Sudbury, in London or at head office, anywhere—"We routinely do not trust the doctors; I know you can get a form saying, 'I want to go back to work on such-and-such a date,' or, 'I can claim insurance for that;'" that is certainly a jaded opinion I do not endorse or support.

I am sorry if any of our staff feels that way, because we do not teach them or suggest that in carrying out their daily work they should automatically become so cynical about and disgusted with the medical profession that they think it is all a sham and just a game to get a medical report that will support any type of payment or any type of benefit one wants.

What I am really saying, Mr. Martel, is that if that were really true, I do not know how we would hear so much of the problems you were explaining to us this morning. I am not minimizing those. I know getting appointments with doctors is difficult. In a lot of cases, getting supporting medical evidence is often very awkward too.

However, it is not the norm, because we have to look at the broader picture. There will always be exceptions. I am sure you could present a case to support anything you said and maybe more than that. However, that is not the norm and that is not what we think is going on. You know my sentiments on that.

If our adjudicators feel that way about the doctors, then the chances are they feel the same way about the worker and everybody else involved in the process. That person will never be a good claims adjudicator. As far as I am concerned, he should not stay on the job at all. I can say that unequivocally. I probably missed some of the points you made, but I hope I covered some of them.

3 p.m.

Mr. Ramsay: We will never know who they are because Mr. Martel will not tell us.

Mr. Corbeau: He knows, but he will not say.

Mr. Martel: Maybe I should talk about claim files, those horrendous make-work projects you have down there. You and I have talked about this before.

Mr. J. F. McDonald: Yes, we have.

Mr. Martel: You have not convinced me one bit that we have to have the accident report rewritten seven times by seven different claims investigators. Every time it is investigated, it is rewritten. Can somebody give me a logical reason? Let me ask you a question, John. After you have the initial report, which outlines it all, and if it is reopened for investigation and there is nothing new, why do you not simply put an addendum to the first report and say, "Investigated on July 26, 1985, nothing differs from initial report," or only put in or append to the first report with the description and details of the accident whatever relevant new information has been obtained?

I have read those files and I go crazy. First, half of them cannot write very well, so you cannot read what they are writing. Second, it is a useless make-work project because I do not think you have to rewrite the incident unless there is something new. Why do it six or seven times or however many investigations there are?

Mr. Chairman: Mr. McDonald addressed that problem. I know he will want to come back to you.

Mr. J. F. McDonald: Are we misunderstanding the term "investigator"?

Mr. Martel: No, I am not. When the case is reopened, when I ask that it be reopened, you send out a field investigator who goes through all

the rigmarole. You will get seven or eight pages of his notes. He interviewed the claimant on this day and he reviews how the accident occurred and what transpired after the accident occurred. Then it is closed. Then somewhere down the road it is reinstituted again. The worker goes to somebody else. You can see upwards of six or seven investigation reports.

Mr. J. F. McDonald: Since 1965 our investigators have not written their notes. They are all dictated.

Mr. Martel: Come on.

Mr. J. F. McDonald: You show me a claim where an investigator has written notes since 1965, and I will eat the notes.

Mr. Martel: I hope you have a big appetite.

Dr. Elgie: That is certainly an offer you cannot refuse.

Mr. Martel: That is right.

I can tell you about Cliff Pennock. He came to Sudbury only four years ago. Cliff is an investigator. He has not been in Sudbury ever since 1965. I have seen his lengthy, copious notes on investigations. Do not hand me the gears. I simply want to know why.

Mr. O'Connor: You were not going to name names.

Mr. Martel: He is not doing anything wrong. He is just doing the job he is told to do, his busy work.

Mr. Ramsay: Elie, let them eat notes.

Mr. Martel: I can hardly wait to bring them down next week. Do you want salt and pepper?

Mr. J. F. McDonald: I am talking about head office investigations.

Mr. Martel: Now you are qualifying.

Mr. Corbeau: I had better say something before he gets me eating more than the notes.

It is my understanding claims investigators who take handwritten notes as they conduct the investigation could certainly be more efficient. Those are transcribed into typewritten notes for the benefit of anybody dealing with the file. If one of the investigators in Sudbury happened to write his notes by hand, I have no idea why because I am certain he would prefer to dictate rather than go through that process. That is something I will look into. I do not want it to continue. I will get back to it.

Mr. Martel: What you are doing is avoiding the issue. Unless he finds something new why even take the time for somebody to type all these silly notes. You have two people engaged in doing silly work. Once he has done the

investigation, if there is nothing new, why repeat it, handwritten or typewritten? Why do you not just put in an addendum that nothing has changed?

Mr. Corbeau: There would not be an investigation in the world which could be repeated two years after an initial one on the same claim where something new would not have been discovered. Two years, if nothing else, have elapsed. The facts of the case have to be reported for some reason. Believe me when I say we do not go out of our way to have unnecessary investigations carried out; we do not have the time either.

Mr. Martel: I am not suggesting that for a moment. I am suggesting that unless there is new data it should be made easier for everyone. It should be made easier for your adjudicators. We know they have a certain number of files to look at every number of days; they must go through them.

I am convinced that is where some of the silly mistakes happen: when they get to the point where there are 10 left and they have two hours to finish them. It is not through any malice. They are just recycling them and getting their 140, or whatever it is, done in an eight-day or nine-day cycle. They could go to the first report to look at the incident—it has been investigated by four different people and nothing has changed—or simply add to it right up front, not buried in memo 16 and memo 27 and memo 92. You and I know that some of those files reach memo 125. Holy smokes! I cannot understand it.

Mr. Corbeau: We have had this discussion before and it is worth pursuing right now. I hope to get the thing clarified.

The situation we talked about was a problem from the representative's point of view. It was that when you got a copy of the claim file through the access policy there was a considerable volume of reports to read over in preparation for an appeal. What you specifically referred to in what you just mentioned is that the accident history, which has not changed one iota since 1963, 1973, 1983 or whenever it happened, is repeated many times throughout the file.

As I remember you describing it to me, going through the file from the beginning to today, you may see the accident history and other details repeated five, 10 or 15 times.

When we talked about that, I explained there are a couple of things that have a bearing on it. None of the claims adjudication staff, medical advisers or other people at the board who also participate in the handling of the file reviews it

from top to bottom each time he sees it for some separate purpose. When you get to one of those claims, it may have 125 memos and I would be willing to bet at least half are handwritten, not typewritten.

For the next person to see that file to go through it once more from beginning to end is not a very efficient use of our time. There is a routine we practised for many years. It is something we discussed in some detail the last time we went over this. The adjudicator will try to prepare a concise summary of the file in a memo and will send it to one of the physicians or surgical consultants at the board to render an opinion on one specific aspect of the claim.

They are not trying to re-examine and relive what happened in the accident history and go through every detail of the treatment during the intervening five years. They are trying to focus the attention of the person on one item, get an opinion and deal with it from that point on. If you do not have that kind of summary prepared you will end up with each person having to look through the whole file.

That is the internal handling of the file. You have probably seen hundreds or even thousands of medical reports. It is commonplace for a specialist seeing a worker for the first time, no matter how many others may have treated or examined the person, to start off a consultation report with, "History of present illness." That is the usual phraseology, if my memory serves me. You get a lot of that repeated again. This comes in hospital records, physicians' reports and many other sources.

I can sympathize with someone reading a file from beginning to end. A lot of it appears to be redundant and superfluous. After our meeting, I think in December 1983, we instructed all the staff at head office and most of the regional offices to eliminate excess, repetitious, verbose comments that did not add any substance to the file wherever it was possible to do so. This was to keep everybody's activities—our own internally, yours as a representative and those of everybody else who was reading the file—not perhaps to the barest minimum but to a minimum compared to what it had been before.

3:10 p.m.

We also have to be careful that we do not infringe on anybody's rights by eliminating some information that is important on some of these pretty senior opinions that are being rendered.

I am not sure there is a clear-cut answer to how to reduce it so you will see a case record or a claim file with one concise accident history

repeated no more than perhaps once in the file and then constant references back to it, such as, "Note the history of accident back in memo 1 or on the employer's report form 7." It would not work that easily.

Mr. Chairman: Would you let Ms. Smith have a question?

Mr. Martel: Go ahead.

Ms. E. J. Smith: I found your answer rather confusing and interesting because, in the first place, you seem to be completely agreeing with the point Mr. Martel is making in so far as you are saying that we are not trying to eliminate them. You said that to read back over, say, your 100 extra things was too much work, so you would suggest to them they start again.

But what has been put forward to you is that they should never have been done 100 times; they should have started with one and just made additions and changes. I completely agree with that. Recollection is not that good, and if I were being reviewed for the fifth time on how an accident had happened, I would feel as if I were being tested out in an attempt to trip me up.

Mr. Corbeau: I do agree that the kind of case Mr. Martel mentioned, in which seven investigators or even seven adjudicators would be talking to the same person and repeating the history, seems excessive. From my own knowledge of claim files, I do not think they would be identical. Incidentally, our people are not going through that file from beginning to end each time they touch it. But I agree that when you are dealing with a file for the preparation of appeal you have to go through the whole record, so you would notice it more and it would be more critical to you at that time.

Ms. E. J. Smith: You seem to go off again. I am trying to look at this business of acquiring a history on a case, and to start at square one every time seems to me to move away from the way the thing really happened rather than towards it.

To make a very simple analogy, they used to do this in hospitals. You went in to have your fifth baby and you were supposed to go back and recall everything from the first right through them all. I finally got to a doctor and said: "Why the heck are you doing all this? It is of no value. I cannot remember accurately any longer." He said: "This has nothing to do with your care. It has to do with training and testing doctors." That was very interesting.

It may be an exercise for your adjudicators, but what does it do for the person? The recollection he has of the accident and the records they had in

the first instance were either not correct, in which case the correction should show up plainly as a correction, or else it is accurate and should be carried forward. I do not understand repetitive forms as being anything other than confusing.

Mr. Corbeau: In my explanation, I have probably dwelled too much on the repetition of the accident history. In a claim that is being investigated to deal with a recurrent problem, something that has happened several years after the original accident and often the claim was closed off, the claims investigator does not go into the accident history again in the same detail he would have at the time it was originally investigated to establish entitlement to benefits.

If a worker's claim were being reopened today for a recurrent period starting on, say, September 15 and dating back to an accident in September 1973—let us say it spans 12 years—if that had to be, in our term “listed for investigation,” the file had to be investigated to determine the continuity of symptoms from November 1973 up to September 1985 to bridge that 12 years, it would be quicker to do it by the investigation.

What the investigator really wants to do is not to pin down or test the worker's memory of what happened 12 years ago but to bring him quickly from the day he fell and injured his back and find out what has happened during those intervening 12 years. Has he performed his usual work or has it been modified? If it is the latter, it suggests there has been some continuing disability.

Ms. E. J. Smith: But that is in your file.

Mr. Corbeau: It may not be, and likely is not, in a reopened claim.

Ms. E. J. Smith: Then there is no repeat. We are talking about repeats.

Mr. Corbeau: In that case there probably is no repeat.

Ms. E. J. Smith: That is my point. Immediately you have a repeat, either you have a correction, which you have to acknowledge is a correction, or you have confusion. Which are you to believe: the first report, the third report or the 20th report?

Mr. Martel: May I interject, because that is my concern. If you take the time to go through the files, on the third report one word starts to alter the interpretation. I know your claims adjudicators or your investigators do not go back to start at the beginning. They will probably start off from the last report.

If the previous investigator deviated at all from the initial accident report, you are then heading for trouble somewhere down the road. This is the

point I am trying to make. It takes only one or two words.

I started to perceive this two summers ago when my constituency assistant burned out and I went back and had to review about 160 files. That is when I started to detect it. What was happening was that one or two words could start to alter the whole case, to send it off in a different direction. That is why I am so concerned about adding only new, relevant material anywhere in the file. I am not saying exclude anything. I am saying only new, relevant material should be put in the file. If there is nothing new, we should simply say, “Nothing new.”

You get 125 memos, and if you look at them, you will see this. I am not saying it occurs in all cases because you and I know the only ones we receive are the problem cases. They have come to us. It starts to alter and that is what worries me. I do not know how you catch it because if they go back to only the last report and not to the beginning, they could fall into the same trap indicated by the second investigation. That is my concern; that is why I am saying we should put only new things in and nothing else. At the same time, this would simplify it for your adjudicators, your investigators and everyone.

Mr. Corbeau: I am not really sure it would simplify the process. If you had to dart in and out of different places in the file to assemble the whole story, on the understanding you are not repeating any of it, you may well find the initial accident history back in one of the earlier memos or reports, something new added four years later, and then something else two years later. We will say it was in three segments. To properly summarize that case, because you are doing something with it today, you would have to make the references back to six years ago, four years ago and just recently.

I am not sure it is as easy to describe from the point of view of the people who are most often dealing with the files as what you are seeing as a representative. We all recognize, too, that not every one of the files is at least two and a half to three inches thick. Fortunately, not all of them are like that. Those are long-standing cases.

I would like to come back to one point you made, and that is where the adjudicators have a case load they are expected to carry. That is true, but if there are two hours or 20 minutes left in the day, there is no expectation that they quickly work their way through that day's allocation of files before they can go home. That is not the way the business is done, and if you have ever been

given that impression, then I have to say it has to be corrected.

People will do a reasonable day's work, but it is not a matter of us taking all the files that are not done today and counting them against their time for tomorrow because they did not finish their piecework for the day, if I can use that expression. That is not the way it works.

Mr. Martel: You will agree, though, they have so many cases in an eight-day or nine-day cycle?

Mr. Corbeau: It is about a two-week cycle. I will not quibble with your reference to nine days because—and it is somewhat technical—it is on a nine-day computer follow-up. Generally, we follow up on cases on a two-week cycle and either adjudicate them or pay them.

3:20 p.m.

Mr. Martel: I am told by people who work in this area, "When we get down near the end, the pressure is on to get it done." It might be there inadvertently. I am not saying it is deliberate. Maybe they just feel under the gun.

Mr. Corbeau: I would like to feel there is a measure of pressure, yes. I can understand that and I will acknowledge it. But the pressure to get it done is probably self-generated. Believe me, nobody is standing over them and cracking a whip and saying: "You have three to go now. Get at it or you cannot leave at 4:30." Our business is not done that way and we do not want people rushing through the files.

I would rather have a claims adjudicator spend two and a half hours going through one of those atrociously large investigations, if it was that kind of a case, than to allocate an average length of time to do it and say, "I will not spend more than an hour at most per investigation." We cannot have that. I am sure you would not want us to do it. You would feel better if they spent the three hours and so would I.

Mr. Martel: And make no mistakes.

Mr. Corbeau: There are no cut-and-dried answers to that kind of thing. They are not under extraordinary pressure to get it done or else. Please let me correct any misconceptions on that if there are any.

Ms. E. J. Smith: It seems to me that once again we are discussing a good way to put together a file and get the most accurate information for use. Whether somebody is under the gun on how fast one has to complete the case is right off the subject. To me, a good file would be the one that clearly stated the case as it was first viewed, and noted any corrections; not

starting at the beginning each time. That is from the point of view of a work load.

How long your staff takes to deal with it becomes another issue. I do not like to see this first issue, which I found quite important, get off into this other issue of how much time they have before they complete the case. It seems to me the report you have in front of you that starts with the case, corrects it and does not start all over every time, is more likely to be an accurate report.

Mr. Corbeau: Yes and no. It depends on the type of claim we are talking about. I do not mean to sound cruel when I say it but the easiest kind of claim for any compensation board or commission to adjudicate is where a worker falls on the job and fractures his arm; an accident that is fairly clear-cut. We do not have trouble with that kind of claim and that is one of the ones that is paid promptly. Everything is fairly well substantiated; there were witnesses, immediate medical treatment and probably a pretty routine recovery.

Ms. E. J. Smith: Take a complicated case then. Let us deal with it and tell me how it improves it to start from square one two years later. Let us take a back injury. I still do not know how it improves it to start later. There is my problem.

Mr. Corbeau: The back injury would begin with whatever is the first report we get, be it from the worker's doctor, the employee or somebody acting on his or her behalf.

If there is a very fuzzy history of injury or something that makes it necessary for us to inquire further to find out what happened to the person, to see whether this claim has entitlement for compensation at all—

Ms. E. J. Smith: We are still on the first report then?

Mr. Corbeau: Yes, and we have not even established the initial claim for this person yet. What we are trying to do is see if they have entitlement to benefits.

To do so, we will either telephone, have a personal interview with the person or, if it is deemed advisable in that kind of case, have one of the field investigations carried out with the worker, any witnesses who may be able to substantiate complaints or assist us to connect the complaint and the injury, if there is a delay in reporting, the employer, perhaps first-aid records and all the medical records. All this information is gathered at the time of the initial investigation to establish that claim.

Ms. E. J. Smith: I agree with that, yes.

Mr. Corbeau: By the time that is reported back to the adjudicator, you are starting to build a fairly sizeable claim file. Mr. Martel said you are going to have investigation notes in there. By now, you will probably have at least one or more medical reports, workers' reports—

Ms. E. J. Smith: But all part of your first report.

Mr. Corbeau: All part of the first adjudication of this claim because it has not been an established case due to the vague accident history or doubts that it even has entitlement under the act.

Ms. E. J. Smith: I understand all that.

Mr. Corbeau: Let us say that claim is paid for a month. The person goes back to work, his back is more or less recovered and he has resumed his regular job. Two or three years later, or whatever time, that person is again suffering back disability that he believes is related to the original claim. Somebody will report it to the board. We hope it is reported promptly. Frankly, the board does not care whether it is the worker, the doctor or the employer who lets us know there is a recurrence. We want to know about that.

So that I do not mislead the committee or anyone associated with compensation, many of these recurrences are expeditiously dealt with by having three reports sent out. These take the form of a standard preprinted form from the board, one to the employer to ask for his knowledge of what the interval has been like during those two years, one to the worker and one to the doctor.

Ms. E. J. Smith: I was judging by what Mr. Martel said. Do you go to the employer and ask him for a report from that past investigation onwards or do you go back to the beginning?

Mr. Corbeau: We go back to the employer and ask him for a report from the day the worker returned to work, not from the initial investigation or action.

Ms. E. J. Smith: Mr. Martel seemed to be implying there was a repeat of histories, not an ongoing one added. By the time you get this big, thick file they have not added or corrected but repeated; in other words, they have gone back to the employer and said, "Joe Jones hurt his back in 1965; tell me about it," not, "He is back now."

Mr. Corbeau: No.

Ms. E. J. Smith: It is important that we understand whether it is repeated or if they simply pick it up where they left off.

Mr. Corbeau: It is awkward and I always appreciate the difficulty in trying to respond to a

matter like this in general terms, as I am, when probably Mr. Martel has seen an actual case in which something of exactly that nature has gone on.

Ms. E. J. Smith: I am not dealing with particulars; I am talking about your general problems.

Mr. Corbeau: To go back to the one you and I were just discussing, we would ask both the employer and doctor, as well as the worker, to give us information from the point the person returned to work until he was laid off again.

Ms. E. J. Smith: So it is a new report.

Mr. Corbeau: It is a new report in a reopened claim. That is what we are dealing with at that point.

Ms. E. J. Smith: I do not have the impression that is what Mr. Martel was objecting to. It was fairly obvious to me that if the last claim was settled in 1968 and it was reopened in 1971, you would go back to 1968 to find out what has happened since. That is not a repeat. I thought at least Mr. Martel was referring to going back again to the beginning.

Mr. Martel: Do not be taken in. It is a repeat. Do not let Mr. Corbeau deceive you here.

Mr. Corbeau: I am trying not to.

Mr. Martel: It is a repeat. It might be an aggravation; it might not. The point is, unless something changes, even the opening, it should not alter the evidence.

Ms. E. J. Smith: You went back to 1968—

Mr. Martel: There has to be a reason why the worst cases for the board to deal with are the aggravations of an old one, the reopened ones, which I am told should be the simplest. That is what Bill Kerr used to tell me. An aggravation of a pre-existing condition or the reopening of an old file should be the simplest, because most of the medical evidence is there, once the investigation starts.

All I am saying is that, unless there is something new, you do not start to rewrite like mad because the tenor of the case starts to change at that point. That is what worries me.

Mr. J. F. McDonald: I take exception a bit with what you are saying, as I have done before.

Mr. Barlow: Is that surprising?

Mr. Martel: No.

Mr. J. F. McDonald: You talk about an investigation being done seven or eight times on a claim. I do not see that occurring. It just does not happen. We are going to disagree again, obviously.

Where we have a continuity we are attempting to establish, the investigator's chore is to find out what the man was doing during that interval. If the original claim is for a shoulder or an upper arm injury and he now has a problem with the other one, yes, you are going to go back and try to clarify the original history. In that case you can get a repeat of the history.

However, generally speaking, I do not agree with your comment.

Mr. Chairman: I will gently intervene and suggest we move on. We really have dealt with this issue.

3:30 p.m.

Mr. Barlow: I have two or three questions to which Mr. McDonald probably would be the one to respond. I got my secretary to go back through my files and determine a pattern of where the problems areas seem to be.

One constant complaint we get in our office is of the worker who, before coming to my office, tries to get things settled up on his own, whether it is a delay in payment or something of that nature. He will perhaps phone head office and give the information on the problem. Whoever is on the other end of the line at the board will say, "Okay, we will call you back." Very often it does not happen. When the worker does not get a call back, he comes into my office and asks us to do some investigating.

Can you comment on that or how can it be reconciled? I know it should not happen, but it does.

Mr. J. F. McDonald: The telephone staff and the claims adjudicators are required to return telephone calls. If the man says, "I did not get a call back that day or the next day," I can appreciate that can occur because they have not got the claim file, and there is not an awful lot they can tell the person without having it.

What we say is, "If you do not have the claim file within a specific period of time, call the person and tell him or her you do not have it and you will get back to him or her as soon as you can."

We reinforce that on a regular basis. We monitor the telephone process of the telephone staff and the adjudicators to ensure they are returning phone calls. If it is not happening then, damn it, I will address it with them again, but believe me, we reinforce it all the time. We have an obligation to keep that person informed as to what is going on in the claim file and to return his calls.

If you have cases where you are telling me they are not being called, let me know and I will

address it with the specific adjudicator or have the supervisor talk to him about it. I cannot give you any other answer. We repeat it all the time. We say, "Look, you have an obligation to keep the person informed."

Mr. Barlow: It does not happen only with the injured worker. My own staff has called head office, perhaps to our contact there, and said, "Here is the problem." They will say, "Okay, we will get back to you." It may be an ongoing investigation where we are still trying to get an answer or a solution to the problem, whether it is the delay of the issue of a pension cheque or almost anything.

Mr. J. F. McDonald: It does not matter what the inquiry is?

Mr. Barlow: That is right. The answer just does not come back before a week to 10 days. At one time we used to get an answer back in a matter of two or three days. We can understand a reasonable delay. Sometimes the problem takes a long time.

Mr. J. F. McDonald: One problem that can occur is if there are processing and development people competing for the claim file. The person may also call the claims adjudicator and contact his union person, who contacts somebody else; if there are three people competing for the claim file, that can create a problem as well.

Mr. Barlow: My staff try to determine that, whether the person involved everybody else instead of just coming to me. If that is the case, there is no use in competing for the file, as you say.

Mr. J. F. McDonald: The point is that not one of your calls is being responded to properly.

Mr. Barlow: Perhaps the next time we will monitor it and get to you with specifics of the problem.

Mr. J. F. McDonald: No problem.

Mr. Barlow: I am told that in some cases, usually involving pension cheques, the amount has been changed suddenly and there has been no notification to the injured worker as to why the amount has been changed. They had been getting whatever number of dollars a week and then all of a sudden, bang, it is changed; another cheque comes in with a different amount.

Mr. J. F. McDonald: The pension cheque?

Mr. Barlow: Yes, the pension cheque.

Mr. J. F. McDonald: The only way it would change is upward as a result of amendments.

Mr. Barlow: That is right; I realize that. These are cases where it has been adjusted, mainly downward.

Mr. J. F. McDonald: If you have a pension that is being adjusted downward, let me know about it. If your assistant can have a look at her records, let me know where it is.

Mr. Barlow: She told me this has not been just one case. There have been several cases where the people have come in. That is why they come to the office. All of a sudden they see a change, and they come into my office and ask about it.

Mr. J. F. McDonald: I do not know why a pension cheque would change, because once a pension cheque is granted, it is granted for life. The only adjustment in that pension should be upward as a result of an amendment. I cannot understand your point.

Mr. Barlow: I do not understand it either.

Mr. Elgie: Perhaps it could be a supplement.

Mr. J. F. McDonald: It could be a supplement. We talked about supplements before; the person is advised that his supplement is going to expire on such and such a date, and we will conclude with a cheque being issued on that date.

Mr. Barlow: But apparently it is not. She gave me that as a separate item. We did deal with that separately.

Something has occurred in the past couple of weeks. Two cases have come in where Ontario Hydro has been the employer. It almost appears that Ontario Hydro is a different employer from any other in the province in that its claims are more extensively investigated. Is that a fact? Is Hydro more extensively investigated as to an injury that occurs at one of its plants?

Mr. J. F. McDonald: Not by us; we would treat Ontario Hydro as any other employer. If Ontario Hydro sends us a claim and says, "We question whether the accident occurred in the manner reported," we would investigate. However, I am not aware of Hydro doing that.

Mr. Barlow: Both incidents go back a bit. One claim was March 7, 1985, some six months ago. The person has been back to work, but there was a period of three or four months when that person was out of work and on compensation. That person has never been paid any compensation for that three- or four-month period. That person is now back at work at Hydro, the same employer.

According to the information we have, the injury was a cut-and-dried case. We cannot get answers from head office as to why the claim has not been paid. The only answer we get is that it is under investigation and is going to take another three weeks. There are two of them on the go right now.

Mr. J. F. McDonald: I will be glad to look into the claims and call you about them. Ontario Hydro is no different from any other employer. It surprises me a little that the person has not been paid, because in a lot of instances Ontario Hydro pays full salary and we reimburse it; it is an advances situation.

Mr. Barlow: Maybe that is what we should do, because we have just been through our records and they are not able to get—

Mr. J. F. McDonald: When we are finished, perhaps you will give me the names and numbers.

Mr. Barlow: I do not have the details, but I will get them before these hearings are finished.

My final question deals more with vocational rehabilitation. I do not know whether anybody has any further questions of Mr. McDonald; mine relates to rehabilitation from an employer's point of view. It came up yesterday coincidentally with these hearings.

The Vice-Chairman: Before we go on, is everybody satisfied with his questions of Mr. McDonald?

Mr. J. F. McDonald: Are you finished with me, Mr. Martel?

Mr. Martel: Except for your diet next week.

Mr. J. F. McDonald: I was trying to be specific.

Mr. Martel: I want to be there when you eat that paper with a little vinegar on it.

The Vice-Chairman: Mr. Corbeau, are you finished with your presentation?

Mr. Corbeau: There are a couple of things I would like to go through quickly.

The Vice-Chairman: Please continue.

Mr. Corbeau: There was reference to a claim file being sent back and forth between our Sudbury office and our head office for some purpose without anything being done with the claim. I believe it was a comment Mr. Gordon raised yesterday. I do not have the specifics of that claim, but I can say that needless travel of files back and forth between Sudbury and head office is not part of our routine.

There are probably 200 Sudbury and 200 London claim files at head office at any given moment. If other opinions are required on a claim, we will photostat the entire file in the regional office to keep it there to have one to work from. We send the original claim file to head office.

I could not even guess at an answer as to what happened in a case where it was returned for

some reason without any action having been taken and then that procedure was repeated two or three times. Either we slipped up or we made a mistake. It is not the routine to send files back and forth without action being taken on them.

If Mr. Gordon would like me to look into it, I would be glad to do so, but I do not think it is a matter to explore further with the committee now because it should not have happened. The file should be sent there for a purpose, to get an answer or to get whatever information is needed. It should be returned to Sudbury and they should take it from there. I would have to explain that away as a bad slip on our part.

I believe a comment was made by Mr. Martel about an attitude in the Sudbury office towards doctors. Was the term "hit list" mentioned?

Mr. Martel: Yes.

3:40 p.m.

Mr. Corbeau: A hit list in Sudbury of doctors who are too generous with the workers? I am not sure; perhaps I could hear some elaboration at first hand.

Mr. Martel: Let me finish calculating what your average fine is here: \$318. I am told, and my assistant in Sudbury was told by people who work at the board, that there is a list of doctors who are far too magnanimous with their patients. Therefore, one does not accept those doctors' reports willy-nilly but asks for additional information to be supplied; maybe an investigation or a report from a specialist would be better than reports from some of these doctors. So you ask the doctors to get another report or get the worker to substantiate that the doctor is far too generous.

The one example I would like to use in particular—since you cannot get at him; he is now on the west coast of the United States—is Dr. Sutherland, a neurosurgeon who many board members felt was far too generous with the workers. I had that admitted to me on my seventh straight appeal here in Toronto. I asked, "What is he?"

"He overdoes it on behalf of his patients and therefore we have to look at it carefully."

Mr. Corbeau: Could you go back a bit, please? Did you say you were told by our staff in Sudbury?

Mr. Martel: My assistant has been told by a staff member there is a list of doctors you have to be leery of because they are far too generous with the patients.

Mr. Corbeau: On behalf of the Sudbury office management, I have to categorically deny that such a list exists. If there is any chance that it

does, it is without my knowledge and certainly without the endorsement of our board because that is not the way we practise good relationships with doctors, with workers or adjudication of claims.

What I thought you might have been referring to was the thing I have called a contact list. It has names of people all over the community—many doctors, union representatives and people of all types—with whom we do business. What we record on that is their specialty, the secretary's name, the days of the week they want us to contact them, the phone numbers and even a reference, "Written requests only." That kind of list I will immediately acknowledge, but a hit list where we are suspicious or automatically sceptical and do not believe a certain group of doctors and physicians, no, sir.

If you ever see it and can produce it, I will be willing to have that and go over it with whoever has developed it as to whether they think they have done the right thing. I have to deny that happened.

Mr. Martel: I take your word. I simply tell you what has been passed on to my office.

Mr. Corbeau: I appreciate that.

Mr. Martel: I would not raise it to sensationalize anything except it is there and I have been told that through my staff, who told me.

Mr. Corbeau: To be absolutely certain I am not missing one important point that may have a bearing on this, the doctors you were speaking about perhaps half an hour ago who have said to you, "We do not want to have anything to do with workers' compensation cases," are on a list of nonparticipating health professionals that is provided to our staff. At their request they do not want to do business with the board.

The reason we would have such a list is to make sure we do not refer patients to them. They have told us they do not want to do any WCB work. That is the only kind of list I could even guess at.

Mr. Martel: I accept your word, Mr. Corbeau. I simply passed on what was conveyed to us. That is why I raised it.

Mr. Corbeau: I feel obligated to pursue that with our own staff in Sudbury to make sure there is no misunderstanding on their part. Thank you for bringing it to my attention.

Another comment was made that, despite improved telephone service, the Sudbury regional office still has problems in getting through to head office. I believe that was raised by Mr. Gordon yesterday. The telephone traffic between

a regional office and our head office is fairly heavy, perhaps heavier during the peak hours of the day; they are traditionally 10 a.m. to 10:45 and, say, 1:30 to 2:30.

We do not have a general problem in getting through to head office, but there can be and have been difficulties in telephoning head office through the intercity network or what I think is called government tielines. If there is any place where the actual calls are not being answered efficiently or we are getting a lot of busy signals, we do pursue that with the management of the section.

Quite frankly, I feel there may have been a problem, which I understand has been rectified, but we will doublecheck this, in getting some calls through to the pension section. If that still is a difficulty for our staff as well as for the public at large, we will certainly take action on it. I feel fair in saying that on John's behalf, after he has volunteered for me to eat a lunch of claim files at Mr. Martel's request.

The next comment was about the appointment of a facilitator at the Sudbury regional office to service urgent claims. This is something else Mr. Gordon mentioned. A facilitator would immediately suggest to me a go-between or somebody between the adjudicator or the vocational rehab counsellor and person whose file they are handling. I should say we have strongly encouraged in both the regional offices from the time they started up in late 1980 to have whoever is involved in a claim file or a rehab case contact directly the person who is dealing with it on our behalf.

I talked earlier about claims adjudicators handling all their own telephone calls, interviews with workers and others who are involved in the claim. On those occasions, however, where either an adjudicator is unable to get an answer, perhaps because he is inexperienced in a particular type of case, as can happen, or there is an urgency over and beyond the normal inquiry, we certainly would endorse having the matter referred higher by the adjudicator to either the team co-ordinator or the supervisor.

I do not want to imply to the committee that we are cutting anybody off from dealing with somebody in a superior position in getting answers and in getting action on claims, but we do mainly rely, as I am sure you will understand, upon the people responsible for their case load to handle it. In any cases where that is not being done or cannot be done, for whatever reasons, I would certainly suggest that the member, the constituency assistant or whoever is working on

behalf of the worker get in touch with another person in our office and we will see that action is taken, as far as we can.

If a claim has been denied, for example, and somebody calls in and says, "I want you to allow this, no holds barred," you will understand there are restrictions on what we are going to be able to do for that person. We may expedite the appeal on his behalf, but we are not going to be able to overturn the decision like that.

The Vice-Chairman: Mr. Corbeau, may I go back and ask a question on the second-last point you made with regard to phone traffic between regional offices and head office? Are there not computer terminals in each of these regional or area offices so that not all inquiries go over the phone directly but can be made through a computer line?

Mr. Corbeau: Yes, there are, and I appreciate your bringing it up, because it is a point I should have elaborated on. Each of the 12 offices I spoke about earlier does have a computer hookup to our head office; so probably by today a majority of all inquiries concerning payments, the status of a claim and whether or not such and such a claim has been reported to the board can be answered on the spot at one of the computer terminals anywhere. What they may have to pursue with a personal inquiry, say from a claims adjudicator to a pensions adjudicator, is something they would need from either the claim file or the pensions assessment that would not be on the computer screen.

You are quite right. Those hookups to the computer do involve an awful lot of that kind of traffic, which used to require telephone or Teletype in the old days.

The Vice-Chairman: Is the mainframe at headquarters capable of handling all the 12 terminals, if that is what they are, from each of those offices or more at the same time?

Mr. Corbeau: Yes. With the number of terminals we have in the regional offices—of course, there are more of them in a regional office than in an area office because of the larger number of staff—we do not have a problem with our mainframe computer handling that extra work load. In fact, we get very good response time, which is usually one of the measurements of how well a computer is serving us. We get very good to excellent response time and we are certainly pleased with that service.

We do expect that as the systems are developed even more on behalf of the regional office through our transmission lines, we will be able to do more and more there without having to

come to head office for that information. I appreciate your bringing out that point because I should have done so.

The next question was, why not decentralize more functions? I believe John McDonald has adequately addressed the comments about pension decentralization, which we will be starting for both Sudbury and London as well as any additional regional offices that are recommended.

3:50 p.m.

The other matter, which took effect officially yesterday, October 1, follows on what Mr. Cain was saying with the new review services division. This means the initial adverse decisions will be written by the claims adjudication, the vocational rehabilitation and the health care benefits staff in the regional offices. They will have been sending out the decisions directly as of yesterday, whereas on or before September 30, one would have got them from the claims reviews branch or one of the other appeal bodies. I call them appeal bodies. I am sure everybody understands they are not formally appeal bodies as such.

We are looking into the centralization fully and completely of the access to the claim file. That is, as Mr. Cain explained, undergoing some changes because of the switch over to the new review services division and the Workers' Compensation Appeals Tribunal, which will be independent and outside the board.

At the moment we are involved in a portion of the access policy to help expedite the copy work of those claim files being sent out by the access administrators. I hope that before long we will be able to have a request for access to a claim file addressed to a regional office handled fully by the regional office and sent to the representatives. We are not at that point yet, but that is one of our objectives for the not-too-distant future.

The other things that would probably be candidates for additional decentralization are small, technical, perhaps behind-the-scenes things that do not have any obvious benefits to the public or workers, but would enhance the regional offices' ability to deliver their programs. A couple of years ago, however, we did decentralize the handling of prosthetics and payment and adjudication of clothing allowance for those workers entitled to that.

What I am saying in a nutshell is that wherever it has been feasible and practical to do so, we have decentralized additional functions where it results in a better grade of service to render them locally as opposed to having them delivered from

the head office. We will look at any others that are reasonable candidates. I am not saying that is the end of the road by any means.

At the beginning I discussed, at greater length than I needed to, our initial adjudicators and the manner in which they are trained. We follow the same policies and procedures as head office does. What we try to achieve is to have exactly the same grade and the same policies adjudicated through the regional offices as we do at head office so that whenever it is necessary the staff are interchangeable.

The continuing claims adjudicators are the ones that would probably have an awful lot to do as far as representatives of workers are concerned, because they are the ones who handle the continuing cases and get involved with any issues apart from the initial allowance of the claim.

We discussed the number of claims investigations necessary and the repetitious comments in claim files. Unless somebody wishes to, I do not need to go into that.

Mr. Chairman: I do not think so.

Mr. Corbeau: I got the message. Mr. McDonald talked about determining entitlement in a reopened claim. The problems and difficulties in doing that efficiently exist in a regional office the same as they do at head office.

If we have one advantage it is that the regional offices have a smaller territory to handle. Therefore, maybe there are ways to speed up the process, but we still have to inquire about the continuity of symptoms and other intervening things that happen from the day they return to work.

Those are all the items I am able to and was expected to address on behalf of the regional offices with one exception, if I may. I do not have the full answer on this yet, but Mr. Martel raised a comment about the lead claims, the firm in London—

Mr. Martel: Wonderful case.

Mr. Corbeau: I am sorry I do not have the answer to that yet, but perhaps I will be in a position to provide that tomorrow with your permission, Mr. Chairman.

Mr. Martel: I have a question I want to ask.

Mr. Chairman: Yes, I understand that, but I was hoping we could also have Mr. Darnbrough at the table before 4:30 p.m. because I know there are questions for him. Go ahead.

Mr. Martel: While I was out, someone gave an answer—I am just going back for a moment and backpedalling—on the number of fines assessed against employers for failing to report

an accident within the appropriate time. If my mathematics are correct or roughly correct, it is about \$320 a fine on average, give or take. What is it? There were 10,000 fines adjudicated this year in a period of five months. I think that was the figure written down. Does that escalate? In other words, if the same company were fined \$100 the first time, would you zap it \$200 the next time, then \$400 and maybe \$800, or is it roughly the same?

Mr. J. F. McDonald: I think the maximum penalty is \$250 for a particular case, Mr. Martel, but I am not sure. I would have to go over the mathematics and get back to you. In any event, what we attempt to do is use persuasion to improve the reporting practices. I commented on that while you were out.

We arrange to visit or contact employers to discuss their reporting practices. We show them what is going on in their claims reporting and attempt to improve it in that way. We continue to monitor those particular employers.

Mr. Martel: I know you will not give me the list of the people who were fined and the amount of the fines levied; at least, I suspect you will not. For example, I am sure the Canadian National Railway is a company on your list that regularly fails to report accidents; at least that is my perception in dealing with injured workers from the CNR. There always seems to be a problem. The board always seems to be waiting for an accident report from CNR.

My concern is about what you do when it becomes repetitive by the same company. If the maximum is \$250, how do you make these birds stop the practice of not reporting as quickly as is necessary? Obviously, that affects how adjudications occur and whether people get payment. It really worries me. If there were 10,000 fines in the first five months of this year, someone needs a kick in the head.

Mr. J. F. McDonald: Do you want to talk specifically about the CNR?

Mr. Martel: Yes I do.

Mr. J. F. McDonald: The CNR, which includes the whole province, had 61 cases in 1984 in which there was a late-filing penalty.

Mr. Martel: How much were they fined?

Mr. J. F. McDonald: It was \$2,025.

Mr. Martel: Let me calculate that. There were 61 claims and a fine of how much?

Mr. J. F. McDonald: It was \$2,025.

Mr. Martel: I am a slow mathematician. You will have to give me a minute. That is about \$30 a case.

Mr. J. F. McDonald: Generally, the provision is \$25 for a no-lost-time claim and \$50 for a lost-time claim.

Mr. Martel: Wait a minute. My concern is what the hell you do when they keep doing this.

Mr. J. F. McDonald: I told you. We visit them and attempt to improve their reporting practices.

Mr. Martel: It does not improve their record, though.

Mr. J. F. McDonald: I have no other club I can use, Mr. Martel.

Mr. Martel: Then how many times did the Canadian Pacific Railway screw up? Have you got that, John, so we can make a comparison?

Mr. J. F. McDonald: Did you say the CPR?

Mr. Martel: Yes.

Mr. J. F. McDonald: No, I do not have any record of their charges with me. Sorry.

Mr. Martel: I guess what worries me is that when there are 61 fines against a company and they are \$25 or \$30 a case, it is a licence to continue to submit accident claim forms late.

Mr. J. F. McDonald: Because of the average dollar you are talking about, I would suggest that most of those cases are no-lost-time cases, Mr. Martel. The worker in those instances—

Mr. Martel: John, if you and I drive down the street here at 60 miles an hour today, tomorrow and the day after and the same judge were to look at those cases, what would he do to us?

Mr. J. F. McDonald: If it were you, he would let you off.

Mr. Martel: At least you know it does not happen that way. As one who got eight points deducted in 11 months, I would say he had better let me off.

I suspect they would increase the fines. There has to be a way to make these birds toe the line. That is all I am driving at.

4 p.m.

Mr. J. F. McDonald: I suppose part of the problem is that when you are attempting to address equality in charging employers, you have to be equal in the charges you are applying. I am not going to say it is going to happen, but I hope with our improved computer facilities we will be able to identify those offenders more quickly and, where there are habitual offenders, increase the amount of the fine against the individual employer.

If you want to take the 61 cases and multiply that by \$250 per case, perhaps they would feel it.

However, since you and I are paying the bill on behalf of Canadian National in one way or another, perhaps we would feel it.

Mr. Martel: We are paying for the banks, too.

Mr. J. F. McDonald: I am not so sure the federal people are.

Mr. Martel: We are paying for the bank collapses.

Mr. J. F. McDonald: We will certainly give that consideration in the future.

Mr. Barlow: I had a question for Mr. Darnbrough—

Mr. Chairman: I have a suggestion. There are problems with time for more than one committee member. Should we adjourn at 4:15 p.m. rather than 4:30 p.m.? Is that okay with the rest of the committee? Mr. Darnbrough has indicated he can be here tomorrow morning. We could deal with rehabilitation tomorrow along with Mr. Ellis and the appeals tribunal. Is that okay with the rest of the committee?

Mr. Barlow: I will wait until tomorrow morning.

Mr. Chairman: Do you have a question for Mr. Corbeau or Mr. McDonald?

Mr. Barlow: Perhaps Mr. McDonald could help me with one area. I am going to be getting more information about this from an employer. I was called yesterday about it and I asked him to draft a report so I can pin it down a little more. It relates to re-injury.

An employee working for a particular employer has been injured in the past. It may be that the new employer does not know there has been a compensation injury. It is a matter of the new employer being assessed for the claim because of the re-injury. It may not come out until investigation that it was a re-injury. The particular employer has an incident in mind, and I have asked for a report on it. Is there some policy on who gets assessed for a re-injury, the new employer or the previous employer?

Mr. J. F. McDonald: If it is merely an aggravation without a new accident and it is accepted as being related to the original claim, it would go back to the original employer. If there is no new accident or new cause, but we accept that the further condition is related to the original claim.

If it was established that as a result of a new accident with a new employer, there was an aggravation of a pre-existing condition or an enhancement of that award because of the new accident, we would consider the application of

the second injury an enhancement form and remove all or a portion of the cost of that claim from the new employer. It would depend on the severity of the accident and the severity of the pre-existing condition.

I suppose one good example of that would be the employment of an epileptic who has a seizure, falls and breaks his arm. Obviously, the employment did not cause the fall; the seizure caused the fall. We would allow for the broken arm, but the costs of that claim would be removed from the employer. Therefore, it would be a charge against the second injury in an enhancement form, rather than against the new employer.

If that employer has a claim where there is a pre-existing condition, we would examine it. Adjudicators do that as a matter of course. The employer may not even be aware of a pre-existing condition. For example, if it is a back problem and there is evidence of a pre-existing condition, the adjudicator would recommend removal of a portion of those costs from the employer's record.

Mr. Barlow: A number of years ago, and maybe it is still a policy, my own company had employed somebody as a maintenance person who had been injured many years previously in an industrial accident. The salary we paid him was not reportable as compensation, as I recall it. In other words, we did not report his salary; we deducted his salary from our total payroll.

Mr. J. F. McDonald: You got away with it then.

Mr. Barlow: Is that right? Do not stop me. This man was on 100 per cent pension.

Mr. J. F. McDonald: In the case of a paraplegic who can go back to work, his earnings from his new employment should be reported to the board by the new employer.

Mr. Barlow: Is that right, even though he works for us anyway? All right, that answers my question on that point.

Mr. Chairman: Are there any other questions for Mr. Corbeau or Mr. McDonald?

Mr. Martel: I have one on policy. Did you at one time provide oxygen in bottles for silicotics? In other words, if a silicotic needed to retain with him a supply of oxygen, would you pay for it?

Mr. J. F. McDonald: I would have to ask Dr. Mitchell to address that question through the health care benefit area. I am sure he will answer it.

Mr. Martel: Since I have a case.

Dr. Mitchell: That would be a necessary health aid cost. Yes, it would be paid for.

Mr. Martel: Did you say yes?

Interjections.

Mr. Martel: Mr. Hertzog does not get it and welfare is paying for his oxygen. Can you tell me why? I usually do not bring cases here, but—

Dr. Mitchell: It could be that his chest disability is not due to his silicosis. That would be the most obvious thing.

Mr. Martel: Why?

Dr. Mitchell: He may have a bad chronic obstructive lung disease which is associated—

Mr. Martel: Which is also compensable.

Dr. Mitchell: Not necessarily.

Mr. Martel: He is an Elliot Lake worker. I thought you might want to look up his number. I will give you the number and maybe you could get him some oxygen—silicosis: 09014008.

Dr. Mitchell: His name again, sir?

Mr. Martel: Mr. Hertzog.

Mr. Chairman: Are there any other questions?

Mr. Martel: I would like to know how you can make that determination. I am not being a medical person, just kind of a—I will not say it.

The committee adjourned at 4:07 p.m.

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Wrye, W. M. (Windsor-Sandwich L)

From the Workers' Compensation Board:

Corbeau, T., Executive Director, Regional Operations

Elgie, Dr. R. G., Chairman

MacDonald, A. G., Vice-Chairman of Administration and General Manager

McDonald, J. F., Executive Director, Claims Services Division

Mitchell, Dr. R. I., Executive Director, Medical Services Division



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Legislative Assembly of Ontario

Standing Committee on Resources Development
Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament
Thursday, October 3, 1985
Morning Sitting

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Thursday, October 3, 1985

The committee met at 10:15 a.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984 (continued)

Mr. Chairman: I see a quorum. We are going to have a discussion with a number of people, including people from the rehabilitation and medical divisions. Before that, I would ask the Minister of Labour (Mr. Wrye) to introduce someone.

Hon. Mr. Wrye: I would like to introduce Professor Ron Ellis, QC, who is the chairman of the Workers' Compensation Appeals Tribunal. As you know, my predecessor announced the appointment of Professor Ellis in the House effective June 1. Since the announcement was made in late May, Ron has been working diligently to get this entirely new tribunal off the ground.

Ron has an announcement of some appointments, some of which have been made already. He will bring you up to date about the appointments not only of the vice-chairman of the tribunal but also of others that have just been made. He will also bring you up to date on his other activities. Ron will be delighted to answer your questions.

Mr. Ellis: I assume the committee's interest is in knowing how we are progressing and what the prognosis might be for the future of this important new institution. I would like to begin by sharing with the committee an assessment of the size of the undertaking we are grappling with.

As of October 1, there were about 400 appeals in the appeal board's pipeline; accordingly, our October 1 startup backlog is about 400 cases. We estimate we will be handling 145 regular appeals per month, which is about 1,750 cases a year. I refer to those as regular appeals to distinguish them from the section 86o appeals.

Committee members may remember that the Bill 101 provision in section 86o extends the opportunity to reopen unsuccessful appeals before the Workers' Compensation Appeals Tribunal and give those injured workers the opportunity to appear before the new tribunal.

In the past 10 years, there have been 9,000 unsuccessful appeals. It is very difficult to know what proportion of those we may expect to see on

our docket in the next year. It can fairly be described as a shot in the dark, but we are assuming that 10 per cent of those cases will appear before us in the next 12 months, which is roughly 1,000 cases.

In short, in our first year of operation we are planning to have about 3,000 cases in the tribunal's processes. That compares to the Workers' Compensation Board appeal board's experience in 1984 of about 1,000 to 1,100 cases.

The committee will also appreciate the special difficulties inherent in handling that size of case load with a brand-new organization. I should assure the committee early on that we are not sizing the tribunal to handle a case load of 3,000 cases a year. We are planning a tribunal capable of dealing expeditiously and fairly with 145 cases a month or 1,750 per year. Section 86o cases, which we anticipate will come in during the first 12 to 18 months, will be handled by the deployment of temporary resources.

With that litany of difficulties behind me, may I turn to the actual progress we have made to date in putting this together. We have temporary space at 920 Yonge Street, just north of Davenport Road, which will do us until permanent quarters become available in January. We have designed an adjudication process which we believe will give participants a full, fair and effective hearing and allow our hearing panels to make informed and sensible decisions. Today, not counting the tribunal members themselves, we have a staff of about 15; we expect that to increase to about 35 in the next two or three weeks. With yesterday's appointments, which I will come to in a moment, we have full-time vice-chairmen and members sufficient to run about six hearings a day.

The processing of the October 1 backlog, the intake of new cases and the preparation of cases for hearings will begin next week. The first hearings will be held early in November. In the meantime, we have organized and are running a serious training program for both staff and tribunal members. It involves running some mock hearings so we can get several dry runs under our belts, test the process and make some adjustments before the real cases come in. In those training arrangements we are including the

representatives of employers and workers. All those participating will begin the learning process together. We hope the November hearings will then run more smoothly than they otherwise might.

There is now a basis for reasonable confidence that by this time next year the tribunal will have disposed of the majority of startup backlog, the flow of new appeals and the section 860 cases within six months of their arriving in the hands of the tribunal. It is necessary to recognize that much can go wrong in that assessment. If our case load estimates are too conservative, if our estimates on the handling time for cases are too optimistic or if the teething difficulties of a new organization prove more disruptive than we anticipated, I may be back a year from now with a different story. It is not an easy undertaking, and I would not want anyone to minimize the difficulties and uncertainties in this first year. However, I believe what I have outlined above can be accomplished.

I am indebted to the Minister of Labour and his staff for their support and for the organizational expertise and assistance they have provided, and to the Minister of Government Services (Ms. Caplan) and her staff for the special assistance they are providing us in ensuring we will have permanent quarters by January.

I would also like to acknowledge the Management Board and its staff. From the perspective of my former position with the Law Society of Upper Canada, I must say I approached them with some trepidation. On personal experience, both the board and its staff turned out to be understandable and constructive. I am appreciative of that.

While making these acknowledgements in this setting, I understand that the importance of the contribution of my tribunal colleagues and staff is implicitly understood.

It is important that I acknowledge the assistance and co-operation of the Workers' Compensation Board and its staff. Under all the circumstances, I think no one would have been surprised to find a degree of coolness in the relationship. Instead, I found a willingness to help and an efficiency in providing that help that has been as impressive as it was welcome. I thank the board for its assistance, which has been absolutely essential to getting us to where we are at the moment.

Before I close, Mr. Chairman, I would like your permission to make public yesterday's order in council appointments. The Minister of Labour was kind enough to suggest that it was appropri-

ate for the chairman of the tribunal to make that announcement and that this was an appropriate occasion to do so.

The members who will be representing workers on the tribunal are Lorne Heard, Brian Cook, Sam Fox and Nick McCombie. Many of those names will be very familiar to most people here. I will identify them briefly.

Lorne Heard is an executive with the United Steelworkers of America, with national responsibility for occupational health and safety. He has about 30 years of experience with workers' compensation cases. Brian Cook has been an active counsel with the Industrial Accident Victims' Group of Ontario for several years. Sam Fox is president of the Amalgamated Clothing and Textile Workers Union. Nick McCombie has been an active counsel with Injured Workers' Consultants, again with many years of experience in representing injured workers before the WCB.

The members representing employers, who were appointed yesterday, are Kenneth Preston, who is vice-president of human resources with Kellogg Salada Canada Inc.; David Mason, manager of personnel with Atlas Specialty Steels in Welland, who also has a substantial background in the mining industry; and Douglas Jago, a mechanical contractor from Brantford with many years' experience in working with the problems of employers.

10:30 a.m.

The vice-chairmen, previously appointed, are Jim Thomas and Antonio Signoroni. Mr. Thomas will be the tribunal's alternate chairman. He is a lawyer with a degree in electrical engineering. He worked as a manager for eight years before his call to the bar and has had experience with workers' compensation cases since his call to the bar.

Laura Bradbury is a lawyer who was called to the bar in 1979. She has had counsel experience with workers' compensation cases. In the past two years she has been employed as an investigator with the Office of the Ombudsman.

Ian Strachan is a lawyer with 14 years of experience. Mr. Strachan's law practice has involved advising small businessmen on a variety of commercial matters and employee-related issues.

Nicolette Catton has a degree in sociology and has been involved with the Office of the Ombudsman for the past nine years. Since 1978 she has been in charge of the Ombudsman's workers' compensation directorate.

You will have noticed a slight imbalance in those appointments in that the members representing employers are three and those representing employees are four. That is a temporary matter which will be resolved in the very near future.

We expect to appoint one or perhaps two additional full-time vice-chairmen, two more full-time employer members and one more worker member. There will also be a number of part-time appointments in both the vice-chairman and member slots.

With those appointments, I am satisfied we will have an outstanding tribunal that will prove to be fair, objective and competent.

I will be very pleased to answer any questions the committee may have.

Mr. Chairman: Thank you, Mr. Ellis. I would like to ask a question before I turn it over. What are your plans for hearings outside Toronto?

Mr. Ellis: We expect to have a travelling panel along the same lines the Workers' Compensation Board has had. We probably will not get that organized by November, but as soon as we are in a fairly steady state, organizationally speaking, one of the early matters will be organizing a travelling panel.

Mr. Chairman: The other question I have has to do with the length of time. You said you hoped to dispose of an appeal within six months. I think it was your profession that coined the phrase, "Justice delayed is justice denied." Is that six months necessary?

Mr. Ellis: In my opinion, it is. There is an amount of preparation necessary to have the case ready for an expeditious and meaningful hearing. A six-month goal is a reasonable one, based on the experience with other tribunals and so on.

There is also a practical problem in that to organize for much shorter than that would involve considerable additional resources. I do not believe the one or two months that might be saved would be justified, particularly when I think six months is necessary to do the job properly.

The cases coming to this appeal tribunal will be the serious cases, the ones that involve contentious medical issues, policy issues and so on. It will take some time to deal with them on a proper footing.

Mr. McKessock: Are you saying when the appeal comes before you the results will be completed in six months?

Mr. Ellis: Yes.

Mr. McKessock: How long will it take to set up an appeal? That is another matter. How long will you have to wait for an appeal?

Mr. Ellis: You will appreciate that the first year's experience will be less well organized than in subsequent years, but we would hope the scheduling of a hearing would be within four or five months of the receipt of the file. In the meantime, there would have been ongoing pre-trial discussions and a discovery process between the tribunal and counsel for the appellant and the respondent.

Mr. McKessock: So are we talking 10 or 11 months from the time you ask for an appeal until it is completed?

Mr. Ellis: No; six months.

Mr. McKessock: You say it will take four or five months to get on and have a hearing, and then only a month or two after that until you get the results?

Mr. Ellis: Yes. There will be cases in which the medical question and the tribunal's responsibility to explore, to undertake further medical investigation will prolong the case beyond six months. I would not promise every case would be dealt with in six months. I believe a great majority of them will be and those that take longer will take longer for good and substantial reasons.

Mr. McKessock: But some could be completed in three months?

Mr. Ellis: I think so; yes. We are not insisting on six months. We will do the best we can, but we are planning on a turnaround time of six months.

Mr. Martel: You just sent shivers, I am not sure if it was up or down my spine, when you talked about pre-trial. As you read out the list and then talked in terms of pre-trial it sounded very legalistic.

I hope I am wrong, Professor Ellis, but I have an apprehension that if it becomes legalistic workers cannot and will not be represented adequately, because if they going to have to hire a lawyer they will be in serious trouble.

I have met with a number of groups who have a fear that such things as cross-examination of witnesses, or of the injured worker himself or herself, might occur at these hearings; I do not know. Maybe you could outline for us, having been involved in only a few of these cases over 18 years, how you envisage these proceedings.

10:40 a.m.

Mr. Ellis: First, for the record, can I get rid of the "professor"? It used to be right but has not been for a time and I prefer "mister."

The concern about a legalistic proceeding has been put to me and my colleagues very often. May I speak about that generally for a moment? We are committed to an effective process, one that allows appellants to get at issues important to appellants and allows respondents to get at issues important to the respondents.

The cases the tribunal will be hearing will be, on the average, the serious cases; the ones in which there are legitimate, serious issues around medical questions, factual questions and questions of policy and law. We are not interested in procedure for procedure's sake. If we have a procedure that is not serving any purpose except to lengthen or complicate the proceedings, then we will get rid of that procedure. We are interested in doing something that is effective and efficient, fair and objective.

The word "legalistic" refers to procedure that is unnecessarily complicated and fraught with difficulties created by lawyers and the law as a matter of tradition without much regard for its usefulness. Off the top of my head, that is the kind of thing I think of when you talk legalistic.

These proceedings will not be legalistic. Neither will they be proceedings in which the injured worker, or indeed the employer, will need to hire lawyers. It will be important for injured workers and employers to be represented by representatives who are experienced and qualified, knowledgeable about the act and the issues and so on. The worker adviser and the employer adviser organizations being established are not planning to hire a lot of lawyers. Those representatives, as well as others, will find this process a very comfortable one in which they can operate effectively. So much for generalities. We get down to the actual thing.

The prehearing process will involve the staff of the tribunal sitting down with representatives of both worker and employer—in those cases where the employer has decided to participate or where the employer is the appellant—to work out what the issues in the case are, to identify the facts that no one is disagreeing about, to figure out whether or not this is a case where further medical evidence is necessary and to prepare a description of the case which the parties will agree is a fair statement of what it is the tribunal has to decide.

Then the hearing will progress on the basis of the hearing panel starting with that statement. We will have a hearing in which witnesses will be

subject to cross-questioning, both the injured worker and his witnesses and the employer and his—you will have to excuse my innate sexist upbringing, I should say his or her.

Mr. Chairman: We understand.

Mr. Ellis: We will, as well, in cases where it is necessary, be calling medical evidence and hearing arguments from representatives of the worker and the employer, and from the tribunal representative. That is the process we have started. I believe it will prove to be none of the things you are concerned about, and that it will work. More than that, it is necessary.

Mr. Martel: I do not disagree that it is necessary. I hope you are prepared to go to the Management Board of Cabinet with me to try and get more staff for members of the Legislature. If you are going to take my constituency assistant out to go to a pretrial hearing, as you call it, and agree on all those items and then come back and represent the worker, that is going to be difficult. It is going to be difficult for the trade union movement and the unorganized, getting representatives for them.

I understand that Mr. Di Santo is going to have a staff; I hope it will be 400 or 500. The Minister of Labour is here; he might have to go to Management Board.

I am not arguing with what you are attempting to do but I worry about cross-examination more than anything else. That is where your people are going to have to be vigilant.

I used to go before Inco all the time. When I first came here, Inco used to bring its doctor, lawyer, its chief of personnel relations; it had a group of people there like a mob.

Mr. Ramsay: Not the mob.

Mr. Martel: They could intimidate just about anyone. If you started to allow cross-examination, they might try to confuse the worker. Much of this is going to be recalled from two or three years ago because those are the difficult cases, the long-term ones. The group that is going to chair that must be vigilant so that does not occur.

My other concern is a staffing problem, particularly for the unorganized who will have to try to find people, because obviously a worker will not be able to go by himself or herself.

Mr. Ellis: I do not agree with that. It is important that workers do not come by themselves because I think the assistance of a partisan representative is an essential feature of an effective hearing; but a worker who does come by himself or herself will find the tribunal staff

set up to make sure that he or she understands the process and can work effectively in it, and to assist him or her during the hearing if necessary.

We who have been appointed to do this are sensitive to the potential problem of an intimidating hearing environment. We are intent on not having that. How we manage that will be an important measure of our success.

10:50 a.m.

Hon. Mr. Wrye: I might just add a word. One of the difficulties we have had in the past as members who have faced many Workers' Compensation Board cases, and every member in this room has, is the situation where a complex case would arrive on our desks. Because of the numbers of worker advisers and their central location in Toronto—if I am not mistaken, I believe the number was three until fairly recently, Mr. MacDonald; there were three or four and then there were six.

Mr. MacDonald: Six just recently.

Hon. Mr. Wrye: It really became difficult. You would look at a very complex case and realize there was a lot of preparation time. In all conscience, you could not send that worker away, yet you realized there was a great deal of preparation time.

Our hope, with the worker advisers, is that if you and your staff have a fairly complex case you will have the confidence that you have highly qualified worker advisers, in the Sudbury region in your case, who you can sit down with the injured worker and perhaps handle that case for exactly that kind of problem. I am sure you know it will not always happen that way. However, if you have a fairly complex case which is going to take a great deal of staff time and for a variety of reasons you may want the worker adviser to handle it, you will be able to do that.

As a member of Management Board of Cabinet, I do not want to have to take a look somewhere down the road at adding to what I think you would agree is already a very substantial staff. As Mr. Di Santo pointed out the other day, once all the hiring is done we are going to have in the range of 30 to 35 worker advisers in Toronto and elsewhere in the province, plus a substantial support staff in all of those centres. I hope that will solve some of the difficulties.

Mr. Martel: I would like to make one point here because I have to go into another meeting for a few minutes.

How are you going to achieve that pre-meeting? Are you going to come to the area twice?

Mr. Ellis: First, much of it will be possible by telephone conferencing. We will send staff to areas where that is not possible. In other circumstances, where it makes sense, we will have representatives come to Toronto depending on how complicated the claim is.

Mr. Martel: For a member of the Legislature, that is difficult. There is no way his or her staff can come to Toronto because of costs of transportation and hotel accommodation. You are going to have to look at that very carefully; for many members it is going to mean their staff cannot come to Toronto for those meetings because they cannot afford the costs.

Mr. Ellis: I really feel the majority of discussions and exchanges can be done on the telephone. We can send out drafts and then have a telephone meeting over the draft, and so on.

Mr. Gordon: Quite frankly, when you are talking about how this is being set up, pre-hearings and so forth, and a tribunal, it does sound scary. It sounds scary; it sounds legalistic. The terms that were used are legal terms.

You say you are not setting up that type of atmosphere, but I think you can appreciate, even sitting here in front of this committee—and you are a man of years of experience and knowledge, used to talking to groups—how the injured worker would feel when he or she goes before a tribunal.

Mr. Ellis: Yes, I know very well.

Mr. Gordon: Unless we have worker advisers who are seen by the injured worker to be independent, then in many of these cases where we have a matter of a long-standing disagreement between the injured worker and the Workers' Compensation Board that we are hoping to resolve, it is going to mean the MPPs are going to have to appear to work along with those injured workers.

I would like to know your views as to the best way to make sure those worker advisers are in attendance.

Mr. Ellis: Perhaps by excluding me from the discussion about how they should be organized; do that independent of the tribunal itself. The tribunal should not be involved in their organization, how they are set up and run, who is hired and so on. Any connection of that kind is inappropriate and we have been proceeding on that assumption. I have not been involved with the organization of either the worker or employer advisers. Are there other areas of independence that concern you?

Mr. Gordon: Yes, in relation to the WCB, in relation to the Ministry of Labour.

Mr. Ellis: The WCB, under the new arrangements, is quite straightforward. The organization of the adviser group is not in any way connected with the WCB. With any specialized group of representatives there is a danger of an operational dependency growing up that the management of the adviser group and the WCB will have to be sensitive about.

If you are appearing every day on behalf of different people before the same adjudicators and primary decision-makers, it requires care not to fall into a dependency relationship and make convenient arrangements in order not to upset the relationship for future cases. That kind of problem is common to any group of specialized representatives. That seems to me the only area of potential dependency that might develop between the adviser group and the WCB. That is a question of everybody being sensible about the problem and careful not to fall into that trap.

As far as the ministry is concerned, there is a problem of organization in isolating the appointment and termination decisions of representatives who do not work out. Isolating those decisions from the government is of critical importance. The person responsible for managing and directing the adviser group for employers and workers needs to make clear to the ministry that the appointment and termination decisions are the business of the management of the adviser group and not of the government. That is a critical point and an area to which it is necessary to pay attention.

Mr. Gordon: It is quite obvious there is going to have to be a tone established and a perception in the minds of injured workers that the worker advisers are independent. I have seen people come before these committees and WCB hearings who were quite forceful, loquacious and upfront and who suddenly started staring at the table during discussions because they were intimidated by the setting and perhaps by some of the people.

Who is really going to be beside the workers? Certainly injured workers are not in that state of mind in many cases. Some of them have been defeated so many times they have lost a great deal of their self-confidence. The fact they are still willing to fight for what they believe is their due speaks a great deal for their character and determination. We are going to have to have people there who can represent them and help them through this process. From what has been said here and from looking at the mechanics of this tribunal, it is clear to everybody it would be a

severe crisis for injured workers to attempt to represent themselves in this situation.

That is my own feeling and my own point of view. I know that you, in all sincerity, wish to make it otherwise, but it just does not work out that way.

Hon. Mr. Wrye: As you know, Mr. Gordon, a number of advertisements have been placed and a number of hiring boards have already been held, including one in your community. The new director advises me—and I think you would agree with me this indicates the degree of independence the government wishes to have for the office—that the quality of the applications has been very high. The number of applicants has been very high and even narrowing them down through the original screening to a relatively manageable short list has at times been difficult.

I am advised virtually all the applicants on the short list have experience in handling these cases. Some are lawyers, some are not. You will find, Mr. Gordon, virtually all those who were hired will already have had some experience, and in many cases considerable experience, in coming before the previous appeals commission. I would share your concern, if they did not, as to who would be there in a sometimes difficult atmosphere to ensure the cases of injured workers were thoroughly and effectively put. I can give you some assurance that is going to be the case with the worker advisers.

Let me explain to you, because you raised this the other day in your comments, that we had at a different time some discussion of where the placement of the worker advisers would be. We all agreed placement outside of the WCB was appropriate. The question then became whether to place them within the Ministry of Labour or through the Ministry of the Attorney General.

The present minister, in his previous role as the opposition critic, supported an alternative situation to that in which we find ourselves, but from a practical point of view, the will of the Legislature was to place the worker advisers within the Ministry of Labour. Indeed, that was the legislation. One of the difficulties—and to be fair, it was a fairly tough call—the important thing was the recognition of the principle of removing them from the WCB, and the balance between the two was fairly close.

That was the will of the Legislature, and with an October 1 startup of the appeals tribunal and the machinery already under way we literally could not get the worker adviser process moving otherwise without reversing the will of the Legislature. We were in a very difficult legisla-

tive bind should we wish to go the other way. There were arguments that we put at the time. My friend the chairman also put some arguments at the time.

I think you will find we are being very sensitive to your legitimate concern that there be true and real independence within that group. The appointment of the director has done that. You will also note the comment Mr. Di Santo made the other day, that he is also going to have some policy. He has a major degree of input, in reporting directly to the assistant deputy minister of policies and programs, into the formulation of new policies as he deems them to be necessary.

In all candour I am satisfied that the concerns I might have expressed on another day have been properly addressed. I am also satisfied, after my discussions with Mr. Di Santo, that you are going to see a very high-quality worker advisory.

Mr. Gordon: In our society today there are people who believe we pass through many lives, and as we go from one life to another we probably improve—

Mr. Ramsay: What were you before, Jim?

Mr. Gordon: I do not know which life I am in now, but perhaps the minister is one of those people who has gone on to another life—

Hon. Mr. Wrye: Are you reading quotes of mine?

Mr. Gordon: Not at the moment. Perhaps the minister has found the truth. Perhaps he is suggesting reincarnation.

He talked about the will of the Legislature. I hope in the next struggle that comes to govern this province he will say it was just the will of the Legislature, not the will of government and not the political party involved. I do not buy that will of the Legislature business. It is a nice soft argument—

Mr. Ramsay: You are right. It was the will of the Tories.

Mr. Gordon: It does not wash. Leaving the smiles behind, you are going to have a few problems in the next while. Mr. Ellis, you will find with that backlog, if it becomes a flood, there will be a certain amount of criticism over delays. My caution is to be sure you hire enough people to handle that; otherwise, you are starting off on thin ice. Although we are critics here, we also want to see things improve for the injured worker. We want the system to be constantly improving.

Going back to the worker advisers, Mr. Martel and the rest of us are still going to have the injured workers coming to us unless the indepen-

dence is really seen to be there. I understand what the minister said about having to set things up, but he should look very carefully at five or six months down the road when things are running and try to put things a little more at arm's length than he has at present.

As I said the other day, it is hard to give up our toys. It is normal to want to keep our little accoutrements of power, but the minister should take another look at it. Maybe if he reread some of his former speeches it would help.

Hon. Mr. Wrye: I will take your suggestion seriously and sincerely to the extent that I will emphasize to Mr. Di Santo your point that he should be sensitive to and vigilant about any concerns being expressed on the issue of independence as the advisory system moves into high gear, and that he should address himself to them.

I will leave that to him because he is the director of the office, but I will pass your remarks on to him. I am sure he will be reading Hansard anyway, but I will emphasize the comments you have made about the need for independence. He is so highly qualified he will ensure that. By the time we are back here next year your concern will be seen to have been resolved if any difficulties arise. I think for the most part it will turn out to be unnecessary.

11:10 a.m.

Mr. Chairman: I want to assure you that having engaged in that debate considerably, I am exercising great restraint in the chair.

Mr. Gordon: I thought maybe you had seen the light or something.

Mr. Ramsay: After Mr. Gordon's remarks, I will have a much better understanding in the future, and possibly even empathy, if he prefaces his remarks with barking or other animal noises. I will understand the situation.

I am satisfied about the importance of the independence of the worker adviser. I do not think that is the question here. What concerns me is the balance and quality of representation that will appear before the appeals tribunal. The minister has described the quality of the applications coming before the director for the worker adviser positions. If a large company were appealing a case, it would use what a layman would call a hot-shot litigation lawyer, a very highly-trained expert.

Mr. Ellis, if the board were defending its own decision, would it use a lawyer before your tribunal?

Mr. Ellis: My understanding is that it is not the intention of the board to appear and defend its decision. That will probably be explored a little more. There may well be cases in which the basic policy is at stake, where it becomes important that the tribunal understand very clearly the basis for the policy. In those kinds of cases the board may decide it ought to participate. The indication we have received to date, with the propriety of which I agree, is that the board would not appear to defend its decisions. It would be rather like a trial court judge appearing in appeal court to defend the merits of the conviction he has registered.

Mr. Ramsay: I wonder if there is any mechanism to ensure a sense of balance. As a newly elected member, I might have an inexperienced assistant, or they could not afford to go to a lawyer or happened to have a relatively inexperienced worker adviser. The workers would need help and that concerns me.

Mr. Ellis: One of the safeguards we have not mentioned is the fact this is a tripartite panel. There will be one member representing workers and one representing employers on that panel. One of the benefits of that structure is that if we encounter a situation where a worker or a small-business man is being prejudiced by lack of representation or the quality of representation, the member representing those interests will call it to the attention of the panel, which will have to deal with it.

Hon. Mr. Wrye: Mr. Ramsay's point is well taken. We are sensitive to it, and I want to give you an example. In the hiring that has gone on in my own community, we have identified from the list a couple of people who are well qualified but do not have extensive experience. I was talking to Mr. Di Santo the other day and his intention is to hire one now, and one of the people who will be working in Toronto eventually will go to Windsor for a time. He has very extensive experience and will go through a training process for the local person hired.

We have made a general policy decision that as far as possible in the decentralization the hiring will be local. We think there is a degree of expertise that can be delivered at the local level. In Sudbury, for example, Sudbury people will be hired. Where we find the qualified people we have do not have extensive experience, where we are hiring two, we will probably hire one now from the highly qualified Toronto group.

We would send perhaps one person from Toronto for a period of four to six months to ensure that the office in that community,

Windsor or wherever, is running smoothly and effectively and that the highest degree of representation is being delivered in that community. Then a second person will be brought on and that person will again stay for something of a training exercise. We want to make sure the representation is effective.

The other thing I hope might happen, and again it is a matter of how this works out through Mr. Di Santo, is that perhaps on occasion MPPs, trade unions or whatever, will continue to do in a more formal way with the worker advisers what they have often done with legal clinics; that is, where they have some questions, when they wish to carry an appeal but they do not have a degree of expertise in certain areas, they will be able to consult with the worker adviser and continue to carry the matter from that point forward, being sensitive to your concerns and the concerns a number of other colleagues here who are first-term members would have of having relatively inexperienced staff as opposed to those of Mr. McKessock, Mr. Gordon and Mr. Stevenson.

Mr. Gordon: Perhaps this is not a fair question to you because you cannot know every little detail, but where in Sudbury would the worker adviser establish himself?

Hon. Mr. Wrye: I do not know. There will be store fronts generally. I am looking at a member of staff. I do not know the process, but I believe there will be store fronts.

Interjection.

Mr. Chairman: Could you come up here? Hansard cannot pick you up.

Hon. Mr. Wrye: I would like to introduce Al Rands, who has had a great deal to do with a number of the projects and with getting these new office worker advisers and others up and running. We will have local store fronts and they will be working just as quickly as possible.

Mr. Rands: The government process of getting space is the Ministry of Government Services' formal process. That ministry understands the location that is desired, one that is readily accessible to injured workers, essentially a convenience location downtown, perhaps a shopping mall. Obviously, things such as public transportation come into play. We do not expect them to be located in a high-rise office building somewhere on the periphery of town. That is the general requirement.

There has also been some discussion as to how one might service an area such as the north. We may have main offices in Sudbury and Timmins

and other locations in smaller centres where the worker adviser might go several days each week. There would be ways of making appointments with them.

Mr. Gordon: How many people do you plan to put in the north?

11:20 a.m.

Hon. Mr. Wrye: There are going to be regional offices in Sudbury and Thunder Bay at the outset. Then, as Mr. Rands has pointed out—correct me if I am wrong, Al—rather than have an office in Timmins, a worker adviser may be able to work out of ministry facilities in those other locations. We want to have the worker advisers as accessible in every community as we can.

I concede it is going to take a while before what is a very dramatic change is fully operational. The bugs have to be worked out with the worker advisers and the tribunal. I do not care even if I hear them by way of questions in the Legislature. It does not matter whether I care anyway. I hope to hear by way of questions, letters, phone calls or whatever, where members have concerns. We want to make the worker-adviser process work effectively.

I would be concerned that it would essentially break down in some ways, even allowing that the members can play an important role, as Ron has so correctly pointed out. We want to make sure the representation is very effective. That was the intent of the committee when we met and the intent of the Legislature in passing Bill 101.

Mr. Gordon: It would seem to me in the Sudbury or Thunder Bay area or London the people you hire should be people who have been seen in the past to be advocates for workers. If you can do that, then you are going to—

Hon. Mr. Wrye: That is where the interest has been, Mr. Gordon. The application and intent has come from those who have been advocates in the past. Past experience has played an important role—not the only role, but it has played a role. That was indicated in the advertisement placed in *Topical*, which you may or may not have seen. As in most of these cases where positions are open, some degree of experience is always an asset. I have been told in a general sense that the list of applicants is long and the list of applicants with experience is just about as long.

Mr. Gordon: What kind of support staff are we going to have for these people?

Mr. Rands: There is a general notion that for every couple of worker advisers we would have a

support person. That changes in the central office where the ratio would be a little lower. In storefront operations, the worker adviser may not be in a lot of the time. He could be visiting a local labour union location or visiting an injured worker who was incapacitated.

There will have to be some reception coverage. The notion is to have a secretary-receptionist in such a storefront location so that there would be answering abilities and the ability to make an appointment for anybody who wished to be contacted or who wished to contact Toronto. In other words, it would be a fairly good place to find out whom one should talk to. I would think such support staff would be of some real assistance to constituency office staff as well.

Mr. Ramsay: I am very pleased to hear from the minister and his assistants that they are considering having worker advisers travel from the regional office. That is especially important in the north. May I give you a definite suggestion that you make judicial use of northern affairs offices in the north? They would be ideal locations for the adviser to come on monthly trips or whatever, or if he has to come for a case. It would probably be cost-efficient, rather than have people from my riding travel 20 miles to Sudbury. It would be a great idea and I would encourage that.

Mr. Chairman: If there are no more questions of Mr. Ellis, I have one on the whole question of precedent. When the appeal tribunal makes a decision, will that be published as precedent? There has been some question in the past about the way the board handled this problem.

Mr. Ellis: We are intent on writing reasons that will be clear as to why the decision was made the way it was made. We are intent on having decisions that are coherent, one against the other. The use of the published decisions will be to permit the parties and the tribunal to decide this case in a manner that is consistent with the way previous cases of a like nature have been decided. I do not like the word "precedent" because it has that legalistic ring to it. We will not be approaching each case as though it were a case that existed all by itself in a vacuum. A tribunal will be developing policies and making decisions on matters of general application and it will be important to apply those in a uniform and fair way.

Having said that, I also want to make it clear I am aware the legislation permits us not to be legally bound by previous decisions and so on. We will be approaching each decision and

deciding it on its merits. Where it makes no sense to apply some previous policy strictly in a particular case, we will not be slow to make the sensible decision. We will be guided, generally speaking, by the policy of trying to make each decision consistent with others.

Mr. Chairman: We have heard in the last couple of days about the number of first-adjudication decisions that are overturned. Will it be the responsibility of the board to monitor the decisions of the appeal board, or will there be a way of communicating that to the Workers' Compensation Board?

Mr. Ellis: That is obviously a matter for the WCB. I believe it will be important over the long term that the decisions of the tribunal and the WCB be, by and large, in step. Otherwise, if it develops that the tribunal always does X and the WCB decision-makers always do Y, then the flow of appeals will be straight from them to us. We will end up with an unmanageable case load and Dr. Elgie will have a problem as well.

It will be of critical importance that a process be worked out whereby the two institutions are, generally speaking, in step. Of course, the section that gives the corporate board the right to review the tribunal's decisions on grounds of general policy is one of the structural arrangements which I believe is designed to help in the accommodation between the two institutions.

Mr. Polsinelli: Mr. Chairman, you covered part of my question and Mr. Ellis covered part of the response. The second question you asked is something I have been concerned about for some time. The feedback mechanism among the present members of the appeal board and the hearings officers and adjudicators just does not seem to be there. As Mr. Ellis has pointed out, it has been my experience that the hearings officers and adjudicators are making decisions based on board policy. The decision then gets to the appeal board, which in many cases has overturned that decision and established a new direction, a new interpretation of the policy.

Some kind of feedback mechanism among the appeal board, the hearings officers and the adjudicators has been lacking to date. I am happy to see that Mr. Ellis will be endeavouring to provide that mechanism. I think your statement, Mr. Ellis, that board personnel, hearings officers and adjudicators who are making decisions within the board level be in step with the appeals tribunal and follow the direction established by the appeals tribunal is important.

I would like to see some kind of structure established so that the people who are making

decisions within the claims review branch of the board are aware of the decisions being made by the appeals tribunal.

11:30 a.m.

Mr. Chairman: Are there any other questions of Mr. Ellis? If not, thank you very much, Mr. Ellis, and we wish you well in your task.

Mr. Ellis: Thank you, Mr. Chairman. I do have a sense of needing some good wishes.

Mr. Chairman: By the way, we have to adjourn at 12 noon because one entire caucus will be absent from 12 on and we do not do that around here. It is something to do with an accord; I do not know the details.

Could we have Dr. Mitchell and Mr. Damborough at the table? Before we ask for questions from these two gentlemen and while the minister is here, we have not heard much about the employers' adviser. Is there a director for the employers' advisory branch?

Hon. Mr. Wrye: Yes. The co-ordinator of the employers' adviser is Mr. Jason Mandlowitz. I see him here again this morning. I do not know whether Jason has been sitting in on most of these discussions. I do not know how far along we are in terms of hiring. However, that group is going to be substantially smaller at the outset.

As I understand it from officials—I can be corrected if I am wrong—there has been some estimate based on earlier experiences with employers' advisers in British Columbia. The office is starting fairly small, but there will be an opportunity to expand it.

If the committee would like to hear from Mr. Mandlowitz at some point, maybe he could make himself available. He is on secondment from the Ministry of Industry, Trade and Technology. I will make sure I get all of the "t's" in that.

Mr. Chairman: It is up to the committee members whether they wish to hear from Mr. Mandlowitz. Am I pronouncing that correctly? If the committee members wish this, please indicate so.

We have the directors of the medical branch and the rehabilitation branch with us again today. Are there any questions for these two gentlemen?

Mr. Gordon: I would like to pursue my line of questioning from yesterday. It had to do with rehabilitation. Can you describe the process when the injured worker arrives at Downsview?

Dr. Mitchell: You are asking me something that is for the other man, but would you like me to respond to it?

Mr. Gordon: Whoever wants to respond to it will be fine.

Dr. Mitchell: As I said, when they arrive at Downsview, they are brought in as they would be in a hospital. They are examined and their history is taken by a physician. A treatment program is established and necessary consultations are arranged. Their progress is monitored.

We include vocational rehabilitation in the process, so that preparation is under way for their return to employment should their physical and mental condition improve. We also have the claims branch, social workers and other people involved to give a full spectrum of rehabilitation.

Mr. Gordon: I know some workers need very specialized types of treatment and so forth, but I am not talking about that group. Given that scenario, there is a group for which a prescription for rehabilitation, physical as well as vocational, could be established. Then they could be put under the care of doctors in London or Sudbury, along with the appropriate social workers and so forth. Are you giving any thought to that type of decentralization?

I think that is much more humane and makes you much more conscious of the needs of injured workers. Second, I believe in the long run you would find your costs would go down.

Dr. Mitchell: We have given a lot of thought to that. I have travelled to Hamilton to discuss with the people who will open Hamilton how we can link so the services may be given locally. We are travelling to Ottawa later this month to discuss this very feature with the people at the regional rehabilitation centre of the Royal Ottawa Hospital.

I think it is important to step back and look at what happened to them before they come to Downsview. These people are treated in their communities. We see only a small proportion of cases come to Downsview. Most of the work is done by the local medical establishment in the community. We encourage that and depend on it. Part of our role is to try to ensure that what is done is timely and appropriate.

However, we do not get involved in that early stage. If there is good care locally, that facilitates the injured worker's recovery, and the need to come to Downsview becomes less important or may not be appropriate at all.

What I was referring to yesterday with the physiotherapy problem was that in that early stage, which is private enterprise if you want to call it, there is difficulty obtaining some of these people to treat these patients in the northern communities. That has been our experience for years. Many of the people treated in the north have not been able to get those facilities.

Inco at one time asked us whether we would consider setting up a group in Sudbury. If there is that problem in obtaining staff for the general hospitals in the area, it is difficult for us as an organization to say, "Yes, we can move in there and supply the facility you want."

It is wonderful to have an Ottawa rehabilitation centre for the Ottawa region. It is wonderful to have plans in Chedoke for an enlarged group. We have the greatest co-operation in those two groups. It would be nice to have the same sort of thing in Sudbury, London and elsewhere, but there are some practical difficulties.

Mr. Gordon: I would not want to bore people with a repeat of my argument on that today, but I am sure it is on the record and you can review it.

Can you tell the committee what representations you have made on behalf of injured workers to the university establishments, the Ministry of Health or the Ministry of Education to make them aware that this is a problem for the Workers' Compensation Board with its rehabilitation plans and its attempts to help injured workers? Do you have any correspondence you could table for us?

Dr. Mitchell: I have made no direct approach to any of those organizations. I have made senior management of the board aware of the problems. We certainly had discussions when we had the group down from Inco.

This question was raised in the review by Peat Marwick, which was carried out two or three years ago. It raised this very issue of decentralization. As part of that examination, this matter was discussed. However, I have not written to any of the groups you mentioned. As I mentioned yesterday, I have had correspondence with people at the local hospitals and I would be glad to table that.

Dr. Elgie: Harking back to one of my previous existences, I would be interested in knowing the percentage of injured workers who come to Downsview who are referred there by their own physicians because they wish another process to evaluate. I found that was quite a frequent part of the practices I saw in those days.

11:40 a.m.

Dr. Mitchell: At one time, that was the chief mechanism of admission to Downsview. There was a request by the family physician. We have moved that emphasis because we wanted to improve the timeliness of intervention forward so that we now select patients on a computer printout who have not recovered when they reach the 90-day post-accident period.

In doing that, we have to tread a very fine line. We had to be perceived as not interfering prematurely with the relationship between the injured worker and his family or treating physician in the local area. But we also wanted to have that person brought into Downsview at a time when we had the opportunity to treat him effectively. The longer the period between the injury and when we see them, the more difficult it is to treat them effectively.

That is why we established by computer printout the 90-day review. Clearly, if the worker is still in a cast and cannot undergo a rehabilitation program, we do not get him in. We want to try to get him into Downsview prior to that six-month period, which is the period that most rehabilitation experts say is the ultimate limit when you can have a significant input to the treatment.

Mr. Callahan: I may be way off base, but I gather that what your colleague here is trying to do is to make it more accessible to the person in his locale. If the matter goes on to a hearing, the doctor might very well have to attend in person. That being the case, if you are using a local doctor, for example, in Sudbury or Ottawa, are the costs of flying him down here and back provided by the board? I do not know whether you gentlemen can answer that.

Dr. Mitchell: When you said "hearing," I was not sure if you were referring to appeals. That is outside my purview. Certainly, if we need to examine a patient, such as a board examination, where we have conflicting medical opinions and we are trying to establish what is right and proper, if we have to have that patient brought to the board offices or to see a consultant at perhaps one of the major teaching hospitals in Toronto, the cost of that transportation is well covered by the board.

Mr. McKessock: But not by bringing his doctor down? You are talking about bringing the patient, not his doctor.

Dr. Mitchell: We bring the patient, not the doctor. We converse with the doctor or get the reports.

Mr. Callahan: If he wants to have the doctor come and appear before the board, that is at his own expense.

Dr. Mitchell: That is moving more towards appeals and that is different. That is outside my—

Mr. Callahan: I am a neophyte.

Mr. Chairman: It is all right. We are all learning.

Mr. Cain: At hearings before the Workers' Compensation Board, we do not ask doctors to appear. We indicate to all injured workers that it is sufficient that they provide us with a report from the doctor or some other information they may want the doctor to impart to us. We do not request the doctor's attendance. It is true that if professional witnesses are needed, we can pay for their appearance, but under normal circumstances we do not request doctors' appearances.

Mr. Callahan: I gather, though, that the person who is examined under the provisions of the Workers' Compensation Board is there to give viva voce evidence as opposed to reporting. Is that correct?

Mr. Cain: No. Officials of the board also do not appear before the hearing. The evidence is factual and is related in the claim file itself. That is what we use.

Under normal circumstances the worker or his representative has a copy of that claim file. If they disagree with any of the medical evidence or other evidence in the file, they have the opportunity to argue the point or to bring evidence with them that would discount or disagree with what is present.

Mr. Callahan: Is there provision to allow them, if there is some dispute between the board's medical opinion and that provided by the worker, to require the board's doctor to appear to be cross-examined or examined?

Mr. Cain: No. We obtained a legal opinion from our own legal department to find out whether it was appropriate for board staff to appear before a hearing. We were informed it was not. The only information they could provide us is information already contained factually in the claim file. It is, in any event, an adjudicative function for a hearings officer to look at the evidence, even when it disagrees, obviously, and to decide what is the most appropriate course of action.

As Dr. Mitchell has mentioned, if there are two specialists' reports, each one totally disagreeing with the other, often the most appropriate course is to adjourn the hearing and send the person off to a more senior specialist, someone who will understand the disagreement that exists, understand the issue and who will provide us with information on it. Eventually, it comes down to that hearing officer having to make a decision on the evidence available.

Mr. Callahan: The reason I asked that question is that I also float on to the standing committee on the Ombudsman and one of the

cases we had before us was a situation where a finding was made on the basis of credibility. I cannot for the life of me understand how you can possibly make a finding on the basis of credibility unless you can, as provided under the Evidence Act, subpoena the doctor to determine any controversy through an adversarial process. That is my reason for asking those questions.

Dr. Elgie: If Mr. Ellis were here, I am sure he would tell you that there are two ways you can approach the hearing process. One is the inquiry mode and the other is the adversarial mode. The process that has been in place since the institution of workers' compensation has been more or less an inquiry mode rather than the adversarial mode.

The new act now adds a final stage of appeal, which is adversarial and which does bring cross-examination into play.

Mr. Callahan: That is an innovation. I am glad to hear that.

Mr. Chairman: There is no longer in the system a place for a medical referee, is there?

Mr. MacDonald: Section 22 is repealed.

Mr. Chairman: In cases of medical dispute, to which Mr. Cain referred, you could request to have the matter referred to a mutually agreeable medical referee. But that no longer exists, does it?

Mr. MacDonald: That section is no longer in the act. I do not want to mislead, though. If you look at the definitions section of the act, you will find the definition of a medical referee, but it is not in the act.

Dr. Mitchell: As I mentioned yesterday, from a practical point, we are using a referee by another name. In other words, we want to develop a system where, if there is disagreement at any level, we want someone more senior to give an opinion. We really want the best possible decision to come out of a board before it moves to the appeal system.

Mr. MacDonald: I should make it clear that there is no longer a provision for a medical referee whose findings would be binding—

Dr. Mitchell: No, absolutely.

Mr. MacDonald: —which is what section 22 provided for before.

Mr. Chairman: When the bill was being debated in the committee, the committee left the definition of "referee" in the bill with no reference to it in the rest of the bill?

Mr. Callahan: Does he still get paid?

Mr. Chairman: I do not know. Either the committee or whoever was here from the board advising the committee was remiss.

Dr. Elgie: That is clearly the cause.

Dr. Mitchell: Mr. Gordon asked the percentage of people from the north treated at Downsview. I have those figures and I might just enter those for the record.

In 1984, for the total year, 1,548 injured workers were admitted to Downsview out of 11,757. This represents a percentage of 13.2 from northern areas. In the first half of 1985, the percentage has fallen to 10.9. It actually represents 760 in that six-month period.

11:50 a.m.

Mr. Chairman: Are there any other questions of Dr. Mitchell?

I wonder whether I could get the consensus of the committee to have Mr. Mandlowitz come up to the table now so that he does not have to be here this afternoon. There are a couple of questions I want to ask him, and other members may want to ask questions as well. Do I have the approval of the committee? I know there are going to be questions for Mr. Darnbrough this afternoon. If there were not, I would be absolutely dumfounded.

Mr. Mandlowitz, come up to the table, please. At two o'clock, we will go back and discuss matters with Mr. Darnbrough.

Hon. Mr. Wrye: Mr. Mandlowitz is the co-ordinator of the office of employer adviser, which is the other side of the coin, in a sense, with respect to delivering expert advice. It is mandated by the changes in the Workers' Compensation Act. It is designed to provide help to employers, large and small—though we rather suspect the majority will be small employers—in the difficulties they feel they have with the board on assessments and on any number of matters. Perhaps Mr. Callahan will want to ask questions as to what his expectations are for that office.

Mr. Chairman: First, Mr. Mandlowitz, welcome to the committee. We appreciate your being here. When the bill was being debated, there was some debate as to whether or not the employer adviser should be accessible to all employers or to only employers with fewer than so many employees, such as 100 or 20. However, that did not become part of the bill. Has there been much interest in your office of the employer adviser, and if so, by whom?

Mr. Mandlowitz: There has been a fair amount of interest in it by employers of all sizes, expressed chiefly through their associations.

Their call has been, in general, to have it accessible to all employers in the province. The minister and the chairman are right that in a practical sense it will be the small businesses that will chiefly require services; businesses that do not currently have staff in place to deal with labour regulations, occupational health and safety issues, etc. My expectation is that the bulk of the inquiries will be from the small-business community.

Mr. Chairman: How big is your office? I do not mean the physical size, but how many people and what locations are you going to be in?

Mr. Mandlowitz: I can give you no answers to those at this time. As you can understand, coming in on a secondment, I have been involved in this for a very short period. Let me comment generally.

The size of the office will be substantially smaller and operate, as a result, differently than the worker advisers' office. I am now turning my head towards issues of decentralization, for example, and servicing the Toronto area with a staff that would perhaps be one sixth of the size of the worker advisers' office.

In the process of consulting with business organizations over the last week, it is clear they have stressed the issue of independence both with respect to operation and to geographical location. They have also stressed the issue of fiscal prudence, if I could call it that. I am trying to accommodate provision of service on the one hand, to be honest, some rhetoric on the other hand and fiscal prudence. That is really what I want to be driven by. With the resources that are available, the service can be provided and probably in shorter order than I had initially thought was the case.

You are probably all familiar with the tendering procedures and various other rules provided by Management Board and others that I have to live with in setting this office up. But because it is a smaller office, there are some provisions that do not apply with respect to larger offices, so we will be able to move a bit more quickly.

Mr. Chairman: Are you advertising your service in trade magazines, and so forth?

Mr. Mandlowitz: The adviser positions will first be advertised in *Topical*, which is the civil service publication, and in the newspapers to parallel the process for advertising for worker advisers. Beyond that, I already have commitments from many of the associations to co-operate in making the new office well known to their members.

Mr. Callahan: I gather that when the employer pays his premium, some sort of notice must go out. Is that correct?

Mr. Chairman: When he pays his assessment to the board.

Mr. Callahan: Yes. Is it possible to include in that assessment full information about this gentleman, how he can be reached, and so on? That would be the least expensive way to advertise it and make everybody fully aware and get his phone ringing.

Interjection: That is, if he wants it to ring.

Mr. Mandlowitz: I have to have a phone first before it can ring.

Mr. Callahan: We will get your address first.

Mr. Mandlowitz: Yes.

Dr. Elgie: I do not think that is a problem. He will give you that information.

Mr. Chairman: You said you were on secondment. I do not understand. Why is it not a completely separate and independent position? Perhaps the minister would be the best to answer this.

Hon. Mr. Wrye: I think you know Mr. Mandlowitz from one of his previous runs. He has worked with one of the small-business organizations and was at the Ministry of Industry, Trade and Technology. In terms of getting the office up and operational, rather than moving and making a full and final appointment, it became necessary to have a secondment. We will be looking towards finalizing things as quickly as possible.

To be quite honest, in some senses time has been working against us. The exercise has been very complex and I am not referring simply to the employer adviser; the worker-adviser exercise, the appeals tribunal, medical matters, and all of that have been extremely complex. I might suggest that events which unfolded this past spring—the election, and the follow-up time—did create, through no one's fault, in the period that we had between the end of December and October 1, which was perceived at the time to be sufficient time, some stresses and difficulties with respect to being fully up and operational.

We have reached out to Mr. Mandlowitz's background and expertise and his knowledge of employer groups to move this matter forward as quickly as possible. We are delighted that he is on board as co-ordinator. We expect to firm up a number of arrangements in the next while.

Mr. Callahan: I gather you are the other side of the coin; you are the employer who does not

want claims to go through that are—I do not want to use the word “phoney”—not proved, which is going to increase their assessment. Is there also assistance available through your office for the employer for some adversarial assistance if it gets, let us say, to the appeal level?

Mr. Mandlowitz: That is certainly one of the roles of the office.

Mr. Callahan: The employer is being treated equally; he does not have to go out and get somebody from that profession to assist him.

Mr. Mandlowitz: Yes and no. Let me just say the caveat on the other side is that it has been made very clear to me this office should in no way supplant what is becoming a proliferating private-sector, management-consulting function. There are a lot of new and growing private sector consultants. When we finally get in place, those firms, looking at our resources, will realize their initial concerns are essentially not problems.

Mr. Chairman: Some of them are here before the committee.

12 noon

Mr. Callahan: You say this business is blossoming.

Mr. Mandlowitz: Yes.

Mr. Callahan: Is this as a result of past history? I gather this service was not available before and that is the reason for entrepreneurs getting into it. You do not feel they will be of any assistance to your office in any way? I would hate to see all these guys go belly up. We have enough unemployment without that.

Hon. Mr. Wrye: In a sense, that is a group already in place, just as on the other side the trade unions, members of parliament and the legal clinics are other structures in place on the worker side. I expect a continuation of both on each side. Mr. Mandlowitz's point at the outset was that small employers who perhaps cannot even afford consultants will be the ones to make most use of this office. It will create for the small employer the feeling that he is getting even-handed treatment with respect to disputes he or she may have with either a claim, an assessment, or whatever.

Mr. Chairman: We must adjourn now. Does the committee want Mr. Mandlowitz back this afternoon?

Mr. Barlow: I have a quick question. Mr. Mandlowitz, are you, in effect, in business right now?

Mr. Mandlowitz: No, I am not.

Mr. Barlow: I just wondered about that. I guess, on the workers' side, they are not in business right now.

Mr. Mandlowitz: No.

Dr. Elgie: Bruce's hearing is scheduled in early November.

Interjection: The tribunal?

Dr. Elgie: Yes.

Hon. Mr. Wrye: I think Professor Ellis hopes to be up and running with respect to hearings by November 1.

Mr. Barlow: Of course, at the same time, the workers' advisers would be available for that same system.

Mr. Callahan: To follow up on the minister's comment, I gather that does not mean the larger businesses which would normally have used this outside source in the past still cannot come through this gentleman's office.

Hon. Mr. Wrye: No. Section 86 of the act sets no limit on the size of the business. A lot of the largest businesses, it will not surprise you, use their own internal resources. Others, as you say, reach out to various consultant groups which are available or, as Mr. Mandlowitz knows, to the various small-business organizations which have a degree of expertise to offer. All of that will continue. This is just an additional support on the employer side.

I would re-emphasize the point, as I understand it, that in the numbers we have built in, we have tried to be sensitive to the fact that not hiring too many at the outset will be, as Mr. Mandlowitz has correctly pointed out, substantially smaller than on the worker-adviser side. We will learn from our experience whether there is some additional need for personnel. It is better to start small. We have done so at that level on the basis of the British Columbia experience, which we have been able to draw from. If we find there is a need for an increment in staff, we will be prepared to take a serious look at that. But we would rather start a little smaller and grow, rather than find we have far too many staff in place on the other side.

Mr. Callahan: You can probably allocate a little of the Ombudsman's budget eventually to this office and to the workers' side.

Mr. Chairman: Mr. Mandlowitz, thank you for assisting the committee.

We will adjourn now and reconvene at two o'clock.

The committee recessed at 12:05 p.m.

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No. R-6

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development

Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament

Thursday, October 3, 1985

Afternoon Sitting

Speaker: Honourable H. A. Edighoffer

Clerk of the House: R. G. Lewis, QC



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Vice-Chairman: Ramsay, D. (Timiskaming NDP)

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South, L. (Frontenac-Addington L)

Stevenson, K. R. (Durham-York PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. G.I. Miller

Gordon, J. K. (Sudbury PC) for Mr. Bernier

Polsinelli C. (Yorkview L) for Mr. Sargent

Rowe, W. E. (Simcoe Centre PC) for Mr. Elgie

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, October 3, 1985

The committee resumed at 2:06 p.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984 (continued)

Mr. Chairman: When we broke up a little after 12 noon, we had intended to have a discussion with Mr. Dambrough and perhaps Dr. Mitchell, if members so wished.

Mr. Martel: I would like to go back. I understand Dr. Mitchell indicated the policy at Downsview on admissions. I have a concern about the six-month admission policy.

Let me read you a very recent letter, dated April 1985, by A. S. Janjua, MD, of the board to a doctor in Toronto:

"We have received your report requesting admission to Downsview rehabilitation centre.

"We would like at this time to refer you to a letter dated December 10, 1984," which I have, "which was included with your remittance statement in December 1984. The letter was to advise you that for the next few months we would be concentrating on early admission to Downsview for backs. We are now well into this program.

"We wish, therefore, to advise you that since your patient's disability has exceeded the six-month time frame, we are unable to admit him/her at this time. It is unlikely your patient will be admitted for at least two or three more months, at which time you should repeat your request for an admission if it is still indicated.

"Accordingly, in the future, requests for admission to Downsview should be within the six-month time limit from the date of injury. In the case of this patient, would you please proceed with your treatment program locally and keep us informed regarding progress."

If I might be so bold, that indicates to me the board—I want to be careful what I say—thinks its chances of succeeding with people off work for less than three months is much greater than its success rate with a person off work for six months or more. This flies in the face, in a sense, of the problems we are outlining. Those cases we find the longest and most difficult are those who have been out the longest time. They are the ones

you are rejecting from Downsview under your present policy.

As I said on Tuesday, that is the group we have to be the most sensitive about and these people will be the most difficult to work with. All of us who have been in this business for a length of time understand that the longer one is out, the more difficult it becomes to become rehabilitated and go back to work. If you are excluding them and have a deliberate policy to exclude them, then it flies in the face of everything we have to do for that group.

Maybe you could tell me why such a letter or such a policy would even exist.

Dr. Mitchell: I would be delighted to do so. From the superficial appearance, you have justifiable concerns, but there is a lot more to it than is implied in that letter.

Mr. Martel: I hope so.

Dr. Mitchell: I would like to go back to the beginning. It is recognized that if you talk about restoring someone's health as opposed to finding a job or the difficulties in managing benefits, the time to give rehabilitation is early after the injury. These things become fixed. It is very difficult to undo something. Most people in rehabilitation medicine recognize an artificial barrier of six months. Prior to six months is the time to get at these people to get them back to health.

This was highlighted by the Peat Marwick people when they did a review of the practices at the Downsview rehabilitation centre. When I took over this position, the average time between injury and admission to Downsview was somewhere between a year and a half and two years. The waiting time to get into Downsview from the time the doctor or someone requested it was four months. Both of those were unacceptable, if you look at the point of view of trying to get that patient better and restoring his health.

We thought we should address this problem. We needed to move the time frame forward to get them in when we could do something for their treatment. As you know, there are a tremendous number of people who have never been to Downsview. We talked about this group of people as an enormous number. We thought if we were going to move that time frame forward and

get this early admission program going, there had to be a temporary haul-in of bringing in those people. I stress the word "temporary."

When we started this program, we undertook a pilot project of back injuries. We admitted those early, treated them and found the results were very impressive and much better than we would have achieved in this older group you were talking about.

In December we started the full program of early admission. On December 3 we started to produce them on a printout, and they were admitted into Downsview, commencing January 1985. We ran that through until we caught up with all the backs lying around under six months or close to six months. Then we got the extremities, the nonbacks, as we call them, and ran them through.

In August we were again able to start to admit those people you have been talking about and were concerned about. We had a period from February to August when we could not admit those beyond six months. In August we started to admit those problems again.

It is very important that you distinguish between restoring people to health, which is what we are trying to do, and the problems as you see them in resolving their claims. I am talking about restoring people's health. What is best for the injured worker is get him early. Resolving their claims is a separate issue and we are now addressing it. That letter from Dr. Janjua was in July, you said?

Mr. Martel: April.

Dr. Mitchell: It was way back.

Let me tell you how many people we got through. Of all the people we identified from our printout who could potentially come in, there were 14,000 injured workers under six months. Up to September 15, we have admitted and treated 3,429 people with injured backs and 1,581 with other injuries. It has been a tremendous program.

More than 90 per cent of patients admitted to Downsview are admitted now within six months of their injury. The waiting time to get into Downsview from the time a request is made is now four weeks. That compares with one year and a half, and four months, respectively.

Mr. Martel: Do you still have a backlog of those long-term cases that you have not cleared up? I might let you know that in all the years I have been at this game I have very seldom asked for a pension. The board is aware of that. My primary concern over the years has been physical rehabilitation and retraining for a new job. I have

never been a great one to try to increase pensions. To me it is a different bag. My primary concern has always been physical rehabilitation first and foremost and, secondly, getting them back to some useful occupation which is beneficial for them and their families. You can fight about pensions, but that is not the most important thing to me.

We have that other group. How many are we talking about? Do you have a handle on them?

Dr. Mitchell: I do not have a number. All I can go by is the demand. The greater the demand, the longer the waiting time to get in. At the moment you can get in, if it has been more than six months, within four weeks of the request. It is not a big number.

It may be that during those six months when we were saying, "No, we cannot handle you," other arrangements were made. As of September and October, if you were to put in a request for someone who has been waiting for more six months and needs to be assessed, rather than treated now, because once you get beyond six months it is hard to treat him, he can be in at Downsview within four weeks.

Mr. Martel: Is that six months from the time of the injury or from the time of surgery?

Dr. Mitchell: It is from the time of the injury. There are cases we never recommend in that early stage because they may have had a back operation and a fusion and they would not be ready.

Mr. Martel: Is one of our problems, particularly with back injuries, the fact that from the time they get injured till the time they receive surgery, we are sometimes into a year before we are even in a position to start any type of rehabilitation? I cannot tell doctors what they ought to do, but is that a problem?

Dr. Mitchell: We cannot either. The treatment of back problems is changing and the type of surgery done is allowing earlier rehabilitation. At one time it was felt you should not allow them back for a year after operating on the back. Modern, younger people who are trained with newer techniques are now getting them back much earlier. Things are changing.

Mr. Martel: It is Dr. Elgie's fault then.

Dr. Elgie: The old fellow.

Dr. Mitchell: Things are changing. We have to keep up with what is going on, recognize the changes and move with them. If you look clearly at what is best for the injured worker, it is early admission and early treatment.

Mr. Martel: When the family physician or a specialist says he should come to Downsview, is that always honoured or is there some screening?

Dr. Mitchell: We screen him, but there is very little rejection if the family physician or the specialist says he wants him at Downsview, except during the six months. When we were unable to accept him, we would write a letter such as has been written there.

Mr. Martel: You might have given a broader explanation in form letter 902 so the doctors who were receiving it as a letter would have understood what was going on.

Dr. Mitchell: Let me give you the background. I personally went to some meetings of orthopaedic surgeons in Toronto and I wrote to all the family physicians in the province. That was alluded to in that mailing. We ran an article in the Ontario Medical Review. We tried to sell this to the profession. We did not want them to feel unhappy in any aspect.

Doctors are busy and they do not always read their mail and they do not read their journals. Some of them may not have caught it.

Mr. Chairman: Are there any other questions for Dr. Mitchell?

Mr. Gordon: First, is Dr. Cam Gray employed by the Workers' Compensation Board?

Dr. Mitchell: As a consultant on chest diseases.

Mr. Gordon: So his capacity then is as a consultant to the WCB?

Dr. Mitchell: He is a member of the advisory committee on occupational chest diseases.

Mr. Gordon: What is his background as a consultant?

Dr. Mitchell: In my time in thoracic surgery for the past 20 years, Cam Gray has probably been the leading chest physician in Toronto and probably one of the leading people in Canada. He was chairman of the Ontario Thoracic Society for a time. He is well known internationally for his work in chest diseases.

Mr. Gordon: Are you involved with Mr. Darnbrough? I presume you two work together then.

Dr. Mitchell: We co-operate, yes.

2:20 p.m.

Mr. Gordon: That is nice to hear. Can you tell me a little bit about the program that was set up in 1976 for asbestos workers? I believe it was at Johns-Manville.

Mr. Darnbrough: Yes. There was a special rehabilitation assistance program developed at

that time to assist with the removal of people from the Johns-Manville area. However, it was actually in effect prior to that, dealing with silicosis disabilities and others. It was extended to the asbestos group at that time.

The whole concept is to assist these people in removing themselves from exposure employment and providing a rehabilitation bridge and some funding while that took place.

Mr. Gordon: How many are still in the program?

Mr. Darnbrough: I think we have 17 or 18 cases that are active with the vocational rehabilitation division at the moment.

Mr. Gordon: Were you able to place the workers?

Mr. Darnbrough: Yes, we have placed some workers. I think we could probably run down some specific statistics for you, if you like.

Mr. Gordon: We would appreciate it if you could.

Mr. Darnbrough: Would you like us to do that immediately?

Mr. Gordon: No, but you could make it available to me.

Mr. Darnbrough: Yes, fine. For a perspective, until we deliver the specifics on it, I should tell you the number that became involved with vocational rehabilitation was in the neighbourhood of 41, and we have worked with those people since then. I think we have 17 of them at the moment who are still active with vocational rehabilitation. Some of them are in training programs.

Mr. Gordon: What plans do you have for the ones who are still in your program?

Mr. Darnbrough: One of those persons is actually employed in an assessment arrangement at the moment. I think two or three others are on training programs. Some are looking for employment.

A couple are in what we would classify as a supported counselling mode, if you like. These people are not satisfied that they are ready to seek employment anywhere. Their disabilities, whether it be asbestosis or the combination of symptoms that they have, are preventing them from seriously seeking employment and our counselling people are working with them and their families at this point.

Mr. Gordon: What kind of hope can we hold out for an injured worker with asbestosis, considering the debilitating effect it has?

Mr. Darnbrough: You might do better to ask Dr. Mitchell about the progress of asbestosis.

Mr. Gordon: Okay. Dr. Mitchell?

Dr. Mitchell: It depends on the degree of it. It is a fibrotic condition of the lung. There are those who have radiological or X-ray changes with very little disability and there are those at the other end of the scale who are severely disabled and really could not manage to do anything worth while in the work force. It is a matter of degree and that degree is not necessarily related to the X-ray changes.

Mr. Gordon: How many new cases suffering from asbestosis do we have coming on stream in Ontario?

Dr. Mitchell: I cannot tell you that figure offhand, but I will get it for you.

Dr. Gordon: Do you see it as a minor or a major problem today? What is the scope of the problem?

Dr. Mitchell: I think it is a whole range of diseases: silicosis, the pneumoconiosis, which is the fibrotic changes in the lung as a result of inhalation of dust of one sort or another. It is a moderately severe industrial disease and definitely a problem. Although maybe not major, there are a significant number of them.

Mr. Gordon: I was coming into the Legislature the other day and I noticed workers out there sandblasting and so forth. There was a considerable amount of dust. I know I do not like to breathe in dust. I try to avoid it whenever I can. I noticed quite a few of those workers were working without any apparatus that would screen out that dust.

Dr. Mitchell: It is probably a soft stone, but I commented on the same thing to the secretary of the board as I walked by today. However, it is more the hard rock that tends to give them silicosis. I just do not know. The man we watched had no ear protection on and it was a noisy instrument, but he did have a mask on.

Mr. Martel: I would also be interested to know.

Mr. Gordon: Yes, that is right. They had a miner there but he did not stay long enough to change things.

What are you doing to promote a consciousness of the dangers of that within the industry where dust conditions develop?

Dr. Mitchell: The Ontario Mining Association does most of that work. There are a lot of programs and reviews. At the moment, a study at McMaster University with Dr. David Muir is

studying the effects of silicosis, ventilation and the influence of that on a lot of the hard-rock miners. A lot of studies are done. However, the board does not get involved in any program of education at that stage.

Mr. Gordon: Do you leave that to the safety associations?

Dr. Mitchell: That is right.

Mr. Martel: That is like putting Dracula in charge of the blood bank.

Interjection: Who did you say they are funded by?

Dr. Mitchell: The safety associations.

Mr. Gordon: Where do all the various associations get their money? I would like it on the record.

Dr. Elgie: They are funded by the Workers' Compensation Board. I believe that, as of this year, all the safety associations, including their budgetary approval, are under the overall guidance of the Occupational Health and Safety Education Authority. That is a tripartite body with management, labour and an independent chairman, agreeable to both sides, that supervises the budgets and activities of the safety associations, including the newest member, the Ontario Federation of Labour.

Interjection.

Dr. Elgie: I do not know what their application is this year.

Mr. Callahan: As the new boy on the block, I would like to inquire about this: In the event an employer is required by the industrial safety standards to require his employees to wear a particular type of mask, safety goggles, ear plugs or whatever, and it is found during the course of a claim that he has not enforced that, does it have any bearing on what is done? Is anything done to his assessment to stimulate him to pursue that type of watchful eye?

Mr. MacDonald: The board has no discretion or authority over the use of safety equipment. That has no effect on the allowance or disallowance of a claim. When we become aware of a dereliction of duty or some special hazard in an industry, we routinely advise the Ministry of Labour, which is responsible for administering the safety regulations having to do with equipment and the operations of various companies. The Workers' Compensation Board has no jurisdiction over that per se.

Mr. Callahan: I am trying to say—

Dr. Elgie: Excuse me. It is a no-fault system, so the impact on the employer would have an

effect on the overall rate. However, in terms of disincentives to employers to do that sort of thing, you have the occupational and safety division of the Ministry of Labour with its obligations.

There are some who propose that an experience-rating system should be imposed on individual companies as opposed to a group within an industry. As you may have heard earlier, two such experiments are being tried at the present time in construction and forestry. There are some who doubt whether that has an effect. Nevertheless it is an experiment we are proceeding with to see whether it has an impact on employer behaviour.

Mr. Callahan: If I understand you correctly, the assessment is not on a particular employer; it is on the overall class he is within.

Dr. Elgie: Except for two industries. In construction and forestry, we are trying out two situations where there is an individual company impact, so it is not just a rate on the whole class.

2:30 p.m.

Mr. Callahan: When I look at the Workers' Compensation Act, I have to look at it in terms of what it has attempted to do, which is to avoid individual litigation by an injured person against his employer. If that process were not in place, in any litigious matter the employer would probably be held liable to a larger or lesser degree, and even punitively if he cavalierly went on and allowed the employees to do what they will.

That is a very genuine concern. Even though the Workers' Compensation Act is there to compensate people, if employers act in a cavalier fashion we are not really doing anything to protect the individual unless there is an almost day-to-day inspection. We have taken away the civil rights with which the individual could do far better than under the Workers' Compensation Act. I am glad you are investigating that in two areas. That is probably very significant.

Dr. Elgie: Let me clarify one aspect. Some governmental organizations combine occupational health and safety, and workers' compensation in one body. Quebec has done that. This province has not done it. Whether or not it is joined together, the aspects you are talking about in terms of employer behaviour are matters with which the Occupational Health and Safety Act deals. The penalties are set out in that act, not in our act. Experience rating is an issue we are looking at in the two pilot projects as an indirect way to improve relations.

Mr. Callahan: That is to determine whether there are any systemic problems in the particular industry?

Dr. Elgie: Or the company.

Mr. MacDonald: In addition, there are still penalty assessments under the Workers' Compensation Act. That affects the employers who are the worst actors under a collective liability scheme. If their frequency rate of accidents is 25 per cent higher than their industry average and if their costs are also 25 per cent higher, there is a penalty assessment that will double; in fact, it can result in a triple rate.

Mr. Callahan: That inures to the benefit of the fund we are administering and not to the benefit of the employee himself. That is my concern. Penalties under the Industrial Standards Act would go to the consolidated revenue fund.

Dr. Elgie: He is talking about a surcharge imposed under the Workers' Compensation Act, which comes into the pool of funds that goes to workers.

Mr. MacDonald: It goes right into our fund and not to the consolidated revenue fund.

Mr. Gordon: Do you have any statistics on companies that fold, leaving workers who have been injured while working for those companies? The wealthy contractor walks away and you cannot assess his company because it is gone. Then he sets up another company someplace else. Do we have any statistics on that kind of activity? Is that a problem in Ontario?

Mr. MacDonald: Yes, we believe it is a problem. As a board, we have said we would support an amendment to the act that would give us the opportunity to get after those people in some way or other.

Mr. Gordon: That is what I am talking about. I think we should be going after those people.

Mr. MacDonald: We support that.

Mr. Martel: What about Johns-Manville?

Mr. MacDonald: For the charges they had at the time of the accidents.

Mr. Martel: In other words, other employers in the province now are essentially footing the bill for runaway Johns-Manville.

Mr. MacDonald: The continuing costs of their claims are a part of the total system.

Mr. Martel: I know, but let us be more specific. Johns-Manville is not paying towards the havoc it has created in the lives of people in Ontario and other employers are picking up the tab.

Mr. MacDonald: You said the same thing in a different way.

Mr. Martel: Okay. I did not understand what you were saying. I just want to be sure I am right when I say that Johns-Manville is getting off scot-free now. Have you ever tried suing the bastards?

Mr. MacDonald: No. We have not tried suing them.

Mr. Martel: Why not? Do you not have authority under the act to sue them or to press charges?

Mr. MacDonald: No. Our legal department advises us we have no such authority and for your information has also advised us that if we did our chances of success from a legal point of view would be minimal.

Mr. Martel: Would it not teach other employers that you were not going to dicker around any longer? I have been to Wilco Canada Ltd. I have sent my assistant to get Wilco. At what stage of the game did you people tell either the medical staff or the Workers' Compensation Board—

Mr. Chairman: Is this a new line of questioning?

Mr. Martel: Pardon me for intervening.

Mr. Gordon: Is it true that WCB doctors send medical reports to Johns-Manville?

Mr. MacDonald: Send medical reports?

Mr. Gordon: Yes; reports on the workers.

Mr. MacDonald: They will be receiving information concerning the current payments that are being made on those claims. I assume that if there were some sort of active compensation case where medical documents were required, they would be getting copies of them by virtue of their right to access.

Mr. Gordon: Despite what Mr. Martel has said about their folding.

Mr. MacDonald: There still is a corporate office.

Mr. Gordon: That is right. I just raised that. It is an interesting point.

Mr. MacDonald: Dealing with the question about Wilco, I am sure the records will show that the moment we found out about those cases, the Ministry of Labour was informed. We are going to verify that for you.

Mr. Martel: I would not mind. I just sent for this report on Wilco to refresh my memory. They were lead-poisoning at least 20 young men. They are another runaway company. They have run

away from London to St. Marys and have opened up a new plant. They now are nonunionized, of course. I have to check the workers. I am not sure whether they were able to take their rights with them.

There is a corporation that for 18 months could not get a lead assessment done. The Minister of Labour shuts the door on Friday afternoon and by Monday morning they have someone to do the lead assessment. They were really high rollers in terms of the health of workers. You are telling me you would not be able to go after them, that there is no power in the act.

Mr. MacDonald: Not to my knowledge.

Mr. Martel: Perhaps it is something we should have in the act.

Mr. Callahan: Unless I have an outdated copy of the act, it provides under subsections 8(4) and 8(5) for action by board, surplus damages, the worker. Maybe I had better read it before I say anything.

Mr. MacDonald: Those are the rights of the worker that may be subrogated to the board on occasion.

Mr. Callahan: "...are subrogated to all rights of the employee or his dependants in respect of the injury...."

Mr. MacDonald: That is after the worker has decided whether to exercise his right or not.

Mr. Callahan: Perhaps Mr. Martel can go on and I will read it.

Mr. MacDonald: If we are going to get into a legal discussion, I would prefer that our general counsel carry it out.

Mr. Martel: He is not here.

Mr. MacDonald: We will have him here at an appropriate time if you want to pursue it.

Mr. Martel: I know Dr. Elgie has indicated that fines fall under the Occupational Health and Safety Act. My concern with Wilco, which is just one of many examples one could use, is that you people should be the ones who first get knowledge of those things. I wonder how quickly that gets triggered. We went from nothing to 20 lead-poisoning cases in such a short period of time.

2:40 p.m.

Mr. MacDonald: Our practice is to advise the Ministry of Labour immediately when we see such a situation and I am quite certain we did in that case. I have already stated that the board would welcome specific authority in the act to be able to sue a recalcitrant employer who is leaving the province or going out of business. There still

will be the problem of whether one can collect by virtue of the financial condition of the company. You already know about Johns-Manville's financial condition in the United States. We would have to ask ourselves whether we could collect. In any case, we agree there should be authority in the act to try to collect.

Mr. Martel: Should there be authority in the act to try to restrain employers when workers show up with industrial diseases and so on, or should we leave that exclusively to the Ministry of Labour? Over lunch hour today, I was looking at some of the fines in the occupational health field and in my opinion they area licence to continue mayhem.

Somehow we have to make people stop. I am not interested in prosecution for the sake of prosecution. I am interested in some way to prevent people from becoming ill and ending up with silicosis. I want to pursue the Johns-Manville thing for a moment to show what is happening. Perhaps Mr. Darnbrough can tell us of the jobs those men have from Manville. What kind of jobs they are and at what rate of pay?

Mr. Callahan: It is very clear that subsection 8(4) subrogates the board, if it pays out compensation to the worker, to the right to sue the party who caused the injury. Whatever surplus it receives is paid to the worker, but is deducted from the compensation that has been paid to the worker and the board replenishes itself for the money. If they get a big award they replenish themselves for the funds they paid out to the worker, plus the worker gets the surplus.

I thought that section was there. That was the thrust of my question. If an employer is found not to have inspected his employees to see that they are wearing the appropriate protective material required under the regulations or under any reasonable safety code, that section might be one that would be resorted to in the most explicit or worst cases.

Dr. Elgie: Perhaps I could interject. Legal opinions not paid for are probably worth about that amount of money. One should first look at subsection 8(1) that sets out the case where an employee has a right of action against an employer.

Mr. Callahan: Yes, that is what I am—

Dr. Elgie: That is not the majority of cases.

Mr. Callahan: I appreciate that.

Dr. Elgie: Where there is that right of action and where the employee elects to take the board's payments, the board can subrogate itself in his

right. However, that is not the usual case. That is a very unusual case.

Mr. Callahan: I appreciate that. That is why I directed my question to the situation where an employee is required to wear a particular type of protective clothing or apparatus, and as a result of the employer not carrying out proper inspections or enforcing that, it is outside the act and would be a cause for action against that employer.

Mr. MacDonald: No. That is the point. There is no right for an employee under schedule 1 to sue his employer.

Dr. Elgie: Nor a fellow worker.

Mr. Callahan: I will bow to a legal opinion from your legal staff but I am sorry; we differ.

Dr. Elgie: I told you that you did not pay for it.

Mr. Callahan: We differ in that respect. I think what I said was right, with all due respect.

Mr. Martel: It is all the shenanigans. I am not worried as much about wearing a mask. I have come to the conclusion that the name of the game is to install the appropriate equipment. I am concerned with this business of loading down workers. Have you ever watched an Elliot Lake worker? I do not know how he packsacks everything he is supposed to carry with him. It is too simple to suggest he put on a hat, a pair of glasses and a mask. Did you ever watch them working beside the blast furnace in Sudbury in the middle of July? I wonder what that does to the respiratory system, trying to breathe through that bloody thing.

That is where we have to zero in; making the work place a lot safer through the installation of appropriate equipment. The name of the game is not to load the workers down until they cannot carry the bloody stuff, because it is hard on them. I suppose the good doctors here know better than I that wearing a respirator at 90 degrees and trying to do heavy work all day must have some tremendous effect on a worker's body.

Dr. Mitchell: I would agree with that.

Mr. Martel: What are we doing to stop it?

Dr. Mitchell: The Ministry of Labour polices the enforcement of the work place atmosphere. It is not the responsibility of the compensation board to police the environment in industry or mines.

Mr. Martel: Even if that employer continually shows, as was the case in Manville Canada, a horrendous record of people being ill?

Dr. Mitchell: A good example is Inglis, with the isocyanates. They were instructed to enclose

the whole process. They said, "We cannot do that financially, so we will close the unit," which they did. This all came through the ministry, not through the board. In Quebec it is different.

Dr. Elgie: We are not arguing with the principles you are talking about. But the vehicles are here in this act to deal with the preventive occupational health and safety measures you are talking about, except through things like experience rating with those pilot projects going on and through surcharges. As Mr. MacDonald has said, we would be more than delighted to have a section in the act that would allow us to attach some of the property, goods and wares of those that are escaping.

Mr. Martel: Maybe we will hear from Mr. Darnbrough about what is happening to the Manville workers.

Mr. Darnbrough: I do not have details on all the cases, but some that I have here, where employment has taken place, look to me to be relatively typical of the results of rehabilitation programs. For instance, we have a person employed as a building superintendent. One is a welder. One is a trade technician teaching at Durham College. Another is self-employed. One is employed in cabinet-making.

Mr. Martel: How many are we talking about who were ill?

Mr. Darnbrough: The ones who became eligible for this program? There were 41.

Mr. Martel: You tell me 41 and you give me five. My understanding is the majority do not have good jobs.

Mr. Darnbrough: Excuse me, I do not want to confuse anybody. Those are the people who became eligible for the special rehabilitation assistance program which was to remove people from employment as a preventive measure. That does not deal with all the people who contracted asbestosis and who have received pensions since this became an issue many years ago. I can answer only for those who became involved in the special rehabilitation assistance program as a preventive measure.

Your concern, and perhaps rightly so, seems to be with the total perspective of those who contracted asbestosis in this province. I do not have that for you. It is a much larger number.

Mr. Martel: I am told that of those you retrained, the majority who are lucky enough to have some sort of job have minuscule jobs at pretty low rates of pay. Have you done an analysis of that?

Mr. Darnbrough: No. I have not analysed the salaries of these people. I have given you examples of the occupations some are currently involved in. I would think a trade technician at Durham College earns a respectable salary; I am not sure. Whether it will match or could ever match the salaries these people were earning in highly skilled work at Manville Canada is another question entirely.

The only thing I could add to that, because we are talking in generalities here, is that where pensions are payable, they are in addition to whatever the person is earning and where they are not earning, special supplements are being paid. They would be back to whatever maximum compensation rate they would receive for total disability.

2:50 p.m.

Mr. Martel: What worries me is the generalization. You say this is a respectable salary. It might well be for one. What is it like for the average? What is it like for the group as a whole in terms of the type of work they obtained after the injury?

I am told—and there are some of the people from Manville here—that many of them are not working. Many of them have lousy paying jobs, and so on. I am not getting very much in terms of specifics, except one in five, and those seem to be five very good ones. I would not want to suggest anyone is putting forth his best foot.

Mr. Darnbrough: I have no intention of doing that. I do not have information on all of the people who have contracted asbestosis in this province.

Mr. Martel: No, I am talking about Johns-Manville.

Mr. Darnbrough: Essentially the cases are from Manville.

Mr. Martel: Yes, we have had a couple of things from them.

Mr. Chairman: Next Tuesday the Asbestos Victims of Ontario organization is appearing before the committee. Perhaps Mr. Darnbrough could have the information for you by then.

Mr. Martel: Yes, that would be nice.

On white-hand syndrome, why are you people so dogmatic about a policy that is outdated?

Dr. Mitchell: I do not think we are dogmatic at this time. We began a research project in late December to review approximately 1,300 cases so that we would be well positioned when the industrial disease standards panel was established to work on reviewing the present guidelines for adjudication.

I have heard clearly what you said in the previous days. Dr. Hilliard advises me, and I agree with her, that we need to review those established in 1978. The best way of doing that is to review the cases we have had and then seek the expertise of the industrial disease standards panel.

Mr. Martel: I am not even looking at the rating right now; I am looking at the policy. Is it not a fact that in England they recognize that some white-hand syndrome occurs in three months?

Mr. Darnbrough: Yes.

Mr. Martel: That has been known for quite some time. The damage is done when you are young and as you get older the ageing factor causes it to show up on your hands. You have known that for some time; yet here we are still fighting these cases when it has been studied in other jurisdictions.

Have you ever talked to Dr. Peter Pelmeur?

Dr. Mitchell: I have had lunch with him on occasion.

Mr. Martel: He is not very happy with your policy, is he?

Dr. Mitchell: No, he is not.

Mr. Martel: That is right. There is a body of medical opinion out there in favour of paying benefits after three months. We still have the silly policy that says that if the man leaves underground we can work him with vibration tools for 20 years. When you file your claim, if you have not worked with those vibration tools in the past two years, despite the fact you cannot even go outside because your hands freeze, you do not have entitlement.

In God's name, what are we doing? You wonder why I get a little irritated. We know where the damage is occurring and you have a roadblock that is simply a policy to deprive workers. If the man's hands were damaged working underground, and you know it, but he has not worked there for two years, then how the hell can you deny him benefits?

Dr. Mitchell: I guess the answer is that sometimes we do not know it.

Mr. Martel: Oh, come on, doctor.

Dr. Mitchell: No, sir. Four to six per cent of these cases are of an origin which is—

Mr. Martel: Where do you think they get them?

Dr. Mitchell: Let me say this, the experience in England is a different experience to that in Canada. They do not have the hardrock mining

and drilling that we have here. You cannot transpose what is in England to Canada. But I agree, you and I have no argument here, that we need to revise this.

Mr. Martel: Why do you not change the policy tomorrow?

Dr. Mitchell: I am not important enough to do that.

Mr. Martel: You are the head of the medical section.

Dr. Mitchell: We must have people who are expert, such as the industrial disease standards panel, to advise us. We can only go a certain way, review the cases, look at our experience and then take it. I do not think it is my role at all.

Mr. Martel: I think it is your role as the medical person in charge at the board to say: "Look. This policy is outdated. We know the damage to the worker's hands has occurred because he has been working with a jack for 20 years. It happened to be eight years ago he left underground and they brought him to the surface because his hands were bothering him."

It did not prevent him from working, but it reaches a point where he cannot use his hands in cold weather. He cannot mine coal; he cannot even shovel snow. We know damage occurred. You simply have a policy that says he has to have worked for the last two years on that, or you do not care where he got the damage, he will not get paid.

Dr. Mitchell: In a case such as you have just described, I would think discretion would be permitted.

Mr. Martel: Yes, but I want to say it is a hell of a battle to get it. There is something wrong when you know where the damage occurred and the worker is denied benefits. There is something sick in a policy like that.

That guy probably produced a lot of money underground for some mining company where there used to be big profits. His "thank you very much" is that quite frequently he cannot work any more and he is not even entitled to benefits because he cannot use his hands when it is cold. That is a sick policy. You have to change it and the sooner the better. I am told you can do the tests for white hand with water. The Ministry of Labour has a pretty sophisticated—

Dr. Mitchell: Cold immersion test.

Mr. Martel: That is right. However, we will not pay him; is that not wonderful? We will not pay him because he has not worked there for two years. It does not matter if his hands are ruined;

do not pay him. You wonder why we get angry? I pass.

Mr. Chairman: Are there any more questions of Dr. Mitchell? Mr. Barlow, you were on the list.

Mr. Barlow: I have a question for Mr. Darnbrough. It is with regard to the telephone call I received the day before yesterday from an employer in the textile business who did some hiring recently from different employment agencies, including the Department of Manpower and Immigration. The jobs are listed there.

Many people have come in to apply for the two or three positions in the firm. Naturally, many of the people did not get the jobs for many reasons. He picked the people he thought best qualified for the jobs. I guess that happens all the time.

They received a call from one of your people, from the vocational rehabilitation division—at least I am assuming it is from one of your people; I am getting a report on this from the company but while we have you here, I would like to give you an opportunity to look at the policy as it applies to this specific case—who said: “You did not hire Mr. So-and-so or Mrs. So-and-so.” I do not know whether it was a man or a lady. “Why did you not hire this person?”

He said: “First of all, we do not even know who this person is. We will have to check back in the records, the job interviews and so forth.” As I understand it, there was no indication this person had ever been on workers’ compensation. Your people almost came down hard on the employer for not hiring this individual. I wonder if there is some investigative policy or follow-up policy you have of which perhaps employers should be made aware. They should know why this investigation is taking place.

Mr. Darnbrough: Thank you. I do not understand why one of our counsellors would call an employer if he had not pre-arranged with the employer to have the interview conducted or had not sent a workers’ compensation case to that employer as a potential job applicant. I believe I heard you say the person was not a workers’ compensation injury.

Mr. Barlow: No. I said the employer was not aware of the fact this person had been at one time on workers’ compensation. That was not the reason the person was not hired. The employer did not know this person had been on workers’ compensation.

3 p.m.

Mr. Darnbrough: I should back up a little then and explain that we do have employment

specialists working around the province who “cold contact,” if you like, employers from time to time by simply knocking on doors and looking for work for people with disabilities, people who have been rehabilitated and are looking for employment.

We will talk to all and any employers anywhere in the province to obtain these job opportunities. When we do locate an employer who is willing to participate, we attempt to bring people to that employer or arrange appointments for people to come to that employer as job applicants.

Let me state this hypothetically because I do not have any more information on the case than you do. If we had arranged for that to happen and then the person was not accepted for the job, I think it would be in order for one of our counsellors to contact the employer and attempt to find out why this person, who looked to be the right person for the job, turned out not to be the right person for the job.

As a means of follow-up, they may ask: was there something in the skill level that we had incorrectly assessed? Was it something in the background of the person? Was it something that took place in the job interview?

I am speculating on different reasons for the counsellor following up to find out why this injured person was not accepted. It may be that the employer did not have a complete understanding of the package of incentives we were offering to encourage him to employ that person.

Mr. Barlow: In the first place, I was aware that your counsellors went around to interview employers in advance to see whether they are prepared to hire people. I was aware of that so I did ask the gentleman who called me: “Did that happen in advance? Had they been around to see you? Did you talk to them previously?”

He said he did not think his personnel officials or his labour relations people had any conversations in advance. It was just that he got a telephone call asking, “Why did you not hire this person?” He said, “It was just like Big Brother coming down on me saying, ‘You have to hire my people.’”

I want to know what the policy is. This is what I am asking.

Mr. Darnbrough: Our policy is that our employment people, or our counsellors for that matter, will attempt to encourage employers through just about any means to hire people who have been rehabilitated and who became injured originally through an industrial accident.

We do not want to do anything that will turn employers against us. We are relying very heavily on them to provide the kinds of work for which we are looking. Therefore, it is not our ambition to offend them in any fashion. I will be most pleased to take that case. If you would be kind enough to give me the details of it, we will follow up on it.

Mr. Barlow: Okay. I asked the person to follow up with a report on it so that I could go into it in more detail. However, I wanted to know what the policy was.

Mr. Darnbrough: It may be something as simple as a counsellor and a client working together, looking at a potential job opportunity as being, "something you are a dead-ringer for and yet you did not get it; let us find out why so that the next time we meet we can talk about what went wrong." It may be as simple as that.

Mr. Barlow: That is fine. Thank you.

Mr. Chairman: I believe there was a decision by the Ontario Human Rights Commission recently which directed the Liquor Control Board of Ontario to re-employ an injured worker, was there not?

Dr. Elgie: Actually, it was an agreement reached between the parties at the time of the hearing.

Mr. Chairman: Was there not a directive?

Dr. Elgie: The case was before a human rights tribunal. As I read the information, they reached an out-of-court settlement on it and hired the individual.

Mr. Chairman: So it does not have a bearing.

Mr. Darnbrough: Not on this issue, I do not think.

Mr. Chairman: No, I was thinking of rehabilitation generally.

Mr. Darnbrough: Mr. Chairman, there were questions posed yesterday by Mr. Gordon and by Mr. Martel. Would this be an opportune time to answer them?

Mr. Chairman: Absolutely.

Mr. Darnbrough: Mr. Gordon was concerned about the use of high technology as a solution for vocational rehabilitation. In particular, I think he had a case that was of some concern to him. He asked specifically what it was that vocational rehabilitation people were doing in terms of knowing about high technology and making those services available to industrially injured people.

I wanted to assure Mr. Gordon that we do have a section of counselling specialists who look after

the relatively serious disability cases, such as spinal cord injuries, where we might be dealing with paraplegia or quadriplegia.

These people are very familiar with what is happening in high-technology utilization of computers or prosthetic appliances that will assist people in returning to their employment or, for that matter, assist them to live a little more independently within their own home environment. Environmental controls are things we have been researching.

We have contacts through the Canadian Rehabilitation Council for the Disabled with an organization called TASH, Technical Aids and Services for the Handicapped. It specializes in these kinds of appliances and this kind of equipment. We have catalogues from TASH and from almost every supplier available maintained in this specialist section. So we are very much aware of these tools for rehabilitation and the mandate in vocational rehabilitation allows us to purchase these when they can be used for vocational purposes. We certainly do that.

We have a placement specialist in another section concentrating on what is happening in the high-tech industry and in the computer world with regard to employment opportunities for people with disabilities. We are attempting to monitor those advances and the various companies in Canada that might be expanding into the construction, assembly or manufacture of computers and the opportunities that might be there for employment. So we are monitoring that as well.

I hope that addresses the question.

Mr. Gordon: Just one point. I was concerned as well with the fact that you might retrain a worker without giving him a technological prosthesis or perhaps with one. Then four or five years goes by and technology changes dramatically. For this particular worker to advance in his job or be able to perform in a much better manner would require this more advanced prosthesis or technological advance. How prepared are your people to make that available? Or do you take the stand, "We retrained you, so you are okay now"? That is what I want to know.

I am concerned with two things. One is the fact that you will be using the new technologies. You have indicated that you do and will be. The other is an attitude or policy.

Mr. Darnbrough: I have dealt with the first part of your concern.

Mr. Gordon: Right.

Mr. Darnbrough: The second part, I suspect, is more a judgement call than anything else. Our

primary objective in assisting someone after an accident is to get him back to work and, we hope, back to work that is equal in earning capacity and future to the job he had before he was injured. Any rehabilitation measures taken are aimed at that dimension.

To say that after a few years someone has come to the point where he wants to advance, and would like to have opportunities open up to him and thinks he could do that if a certain piece of equipment was available, in that case I would like to think we were in a position to be reasonable enough to deal with those kind of cases as well. There is nothing in our policy that would prohibit that from taking place. Each case has to be dealt with individually in its own circumstances and on its own merit.

Mr. Gordon: There are often instances where people cannot advance with the company and cannot take a promotion because they do not have the technological tools they need. They end up having other people go around them and they themselves will eventually start going backwards. They will be going down in the organizational structure if they cannot keep up.

3:10 p.m.

Mr. Darnbrough: That is true. As well, it applies for just plain independent living purposes. There will be advances. At the rate they are taking place nowadays, we have to try to keep on top of them. That will make living for people with serious disabilities considerably more comfortable next year than it is today. This is a continuing type of practice as far as I am concerned. We will have to look at those advances as they take place and do what we can.

If I might, in addition to his questions, Mr. Martel made some observations, and I would like to spend a few minutes attempting to resolve those questions or addressing the observations.

One of the observations I would personally like to get at is the question of attitude. We had dealt with it in the conversation with Mr. McDonald yesterday. I think the position was that the attitude of employees of the Workers' Compensation Board seemed to be one of "cut the person off," that empathy was not something they are prepared for, and that the board's training perhaps does not even encourage an understanding of the needs of industrially disabled people.

What I want to say at the outset is that I cannot accept that as a generalized statement of the behaviour of employees of the Workers' Compensation Board. I have been with the agency for more than 20 years and I know something about

the nature of the people who come there and who have decided to serve the public and to serve people with disabilities. They take it seriously, they make careers out of it and they do not treat it lightly.

In addition to that, as management people we have attempted to ensure that the selection of people, especially in the vocational rehabilitation area, which I mention especially because that is where I am at the present time—

Mr. Martel: You do not have a bias, do you?

Mr. Darnbrough: None whatever. In the selection and recruiting of these people we look very seriously at their backgrounds, at what sort of experiences they have had and the understanding they have for dealing with people with disabilities. We ask that they have in most cases a social sciences or psychology background before they come to us, and we launch them at that point into an extensive nine-week training program.

In Canada it is the most extensive training program for vocational counsellors at any board. It is so extensive, in fact, that other boards have asked us to train their counsellors. They come here and consult with us on providing the kind of training that is necessary. We are not just satisfied with that training, either. We have monitoring and performance systems in place to make sure the attitude of counsellors is what it should be.

As late as two years ago we introduced a standard of performance for vocational counsellors, the first in Canada, as it were. The performance side of those standards is what really needed to be addressed, in our opinion, in order to give the supervisory people and the counsellors a better opportunity to be very precise in looking at their performance and their understanding of what the system is and what their role is in helping people who have disabilities.

We went beyond that to develop a counselling model and introduced that at a national conference not too long ago to a rather surprising and very positive reception. The training for our people, as I mentioned, is nine weeks. It includes a lot of classroom work as well as practical work with other counsellors and so on.

I will not personally condone an individual in a vocational counselling environment who does not have empathy, who does not understand his or her role to help people return to work and to make sure every person dealt with understands the extent of his entitlement under the act and receives everything he is entitled to.

I think maybe, as Mr. MacDonald suggested yesterday, that thought seemed to be with you, but there may have been a touch of tongue in cheek. I certainly hope that is the case because we will not—

Mr. Martel: Let me make you feel a little better. I do not think I was critical of the rehabilitation section from that point of view at all. It was with claims, I must say. With rehabilitation there is a different type of problem. If you want it in a nutshell, there just are not enough rehabilitation officers to do the job. I think they are overworked.

In Sudbury it is lousy because there are no on-the-job training opportunities. When 15,000 people have left the area and when 15 per cent of those left are unemployed, employers are not quick to grab an injured worker. That is why I said maybe we should educate them all. We could make neurosurgeons or concert pianists out of all of them.

Mr. Darnbrough: We will certainly keep that in mind. I thank you for your comment and I invite you as well, if the occasion ever arises that one of our people appears not to have the attitude that is required, to let me know about that. The same applies to any member of this committee or to anyone in the public who feels the service is not being properly provided.

The next item you commented on, or requested information about, was whether we were involved in joint advisory committees. The one you were particularly interested in was one that seems to be a relatively new thrust by the Canada Employment and Immigration Commission, the establishment of local advisory boards.

This is a relatively new direction for these people; it cancels out something that had existed. At a meeting about three months ago I met a chap named Dawson and we spoke about this. He represents the new CEIC action. He spoke about the possibility of Workers' Compensation Board people participating on these advisory committees and we are willing to do that and want to do that. I asked him to let us know what the chances are of participating on the committee, and he has agreed to let us do that. So I am attempting to place employment specialists and some of our other specialists on these committees.

The question of participation on committees generally would be of interest to some of the members. Vocational rehabilitation people have to act as a catalyst. They must be the people who attempt to make things happen, to bring together doctors, employers, unions, safety people and so on. We see our role as working on behalf of the

injured person. As a result, we have to participate and we want to participate in committees wherever they exist.

There is an intergovernmental group or representative here called the Council for Equal Employment of the Disadvantaged; we have membership in that. There is a local organization called Line 1000 in Ottawa and we participate in finding opportunities for employment for disabled people generally. We ran a pilot project with them about a year and a half ago involving a job club approach, which turned out to be very successful, as we had expected. Because of that success, we are considering a report that would allow us to have a job club approach for people with industrial disabilities across the province.

Mr. Chairman: What are you calling it? A job club?

Mr. Darnbrough: The counselling term is "job club." The approach is not entirely new; it has been in the United States for about 10 years, but it is relatively new in Canada. It brings together a group of people, usually five to nine people, with the assistance of a counselling person. They work together to help one another locate employment.

The counsellor is there because higher-level information is needed as well. The counsellor provides instruction on interviews. They might videotape interviews to practise applying for jobs or conduct an analysis of the job market in their area.

Mr. Martel: Are you telling me that happens with all injured workers who are going to be rehabilitated?

Mr. Darnbrough: Not in the least, Mr. Martel. We did a pilot project with a group in Ottawa that included Line 1000, Community and Social Services and some others. From that pilot project we learned that it has an application across the province and we would like to move in that direction. We probably will.

Mr. Martel: What is the present practice across the province?

3:20 p.m.

Mr. Darnbrough: I will be explaining that in the course of answering your question.

Mr. Martel: Oh, good, I can hardly wait.

Mr. Darnbrough: We were dealing with the utilization of various committees as an approach to rehabilitation.

With regard to occupational health and safety committees, at the present time we are attempting to get more co-operation with employers and joint labour-management groups. We have taken

a number of initiatives in that direction in the last year or so which have worked out rather nicely.

An example is one in Hamilton, where we brought together the various hospitals and their administrators. We brought together the representatives of the occupational therapist, the physiotherapist, the nurses' association and the unions that look after the rest of the hospital employees.

The idea is to work with these people to explain the rehabilitation program that is available to them and to concentrate on helping them to return their own employees to their previous working environment. I think the advantages are obvious to everyone, of being able to maintain seniority and a lifestyle for the individual and to take advantage of the skills they already have. We have attempted to move into that area.

Next, we have already launched into deals with the construction trade. This could prove to be a very significant undertaking, I think. We have central Construction Safety Association of Ontario representatives involved with this. An idea they are exploring at the moment might be unique. They are talking in terms of all the companies in the organization forming an umbrella company which provides work for those people who cannot return to their previous construction-type occupations. It is kind of exciting, actually, to watch this thing unfold, particularly since we made the offer to bring these groups together and to help them do that.

The final thing in that direction is that there has been a great deal of positive information and a great deal of acceptance for occupational health and safety committees. In recent articles which I think Corpus Information Services has produced, there was the suggestion that perhaps the duties of these occupational health and safety committees could be expanded. Certainly, when I read that I was interested in it because we have been attempting to interest some of these committees in dealing with the placement of the people who become disabled.

We have plans under way to attempt to contact the various joint occupational health and safety committees. I think the list we have now is about 12,500, so we have a long way to go. As an initiative for the end of this year, we will attempt to contact some of those companies.

Mr. Martel: Who is speaking for the workers on those occupational health and safety committees, from the construction side?

Mr. Darnbrough: The union representatives from the construction side.

Mr. Martel: Mr. Darnbrough, I have difficulty with that because the difficulty the construction unions and workers are having is that there are no permanent occupational health and safety committees. Somebody has taken on the job. He supervises or tries to be the occupational health person and frequently is fired because he is on occupational health. The big problem for the unions and the workers has been that they cannot get representation on those committees. I wonder about how much input is coming.

Mr. Darnbrough: I did not want to confuse you by my reference to occupational health and safety committees, which employers having 20 employees or more are required to have. That is one dimension of where we are headed and we are attempting to deal with those because they involve an enormous number of workers in this province.

The initiative we have going with the construction group at the moment involves only the central area, which I think runs out around to the Kitchener area. It involves a committee on which there are labour and management representatives and representatives of the Construction Safety Association of Ontario.

I can appreciate what you are saying about their concern with lack of representation. All I can tell you is that in this particular instance it looks very positive. We have made presentations to the group. The union people are supporting it and endorsing it. At this very moment, having met with us, they are attempting to go back to their groups and say: "This looks like a good move. It is designed to create, if you choose, modified employment somewhere in the construction industry, something that was denied for years as even existing."

We are saying: "If you look closely, it does exist. If you combine your needs in that area, you might come up with some opportunities to employ people who have disabilities, but you have to get together on this." One company might need flagpersons for a morning and another might need flagpersons in the afternoon and dispatchers or people of that nature.

No one company might be involved sufficiently to hire that kind of person, which presents us with a problem, but five companies in the area could decide: "If we all get together, we will be able to keep that person busy. Maybe if we form a little group of some sort, we can do that." In that case we say to them, "We have the people you need." That is our idea of trying to get involved with the construction people.

The other way is much bigger, if we have any luck at all, and the response has been very good so far. We are saying to 12,500 joint occupational health and safety committees: "You are involved primarily with preventing accidents. Sometimes that does not happen. What do we do about getting around the seniority problems of bringing back to work the people who have disabilities?"

The Ontario Federation of Labour and the Canadian Labour Congress have supported us in these programs. Local labour councils have supported vocational rehabilitation from the board, but we know that at this moment we still have to get to the local level and to the local president. I have talked to a few of them over the days, including one from the Steelworkers local last week. He understands what it is like at the local level to deal with the seniority problem. The jobs that require seniority are the jobs in many cases that would be suitable for people with disabilities of some sort.

We are hoping to convince them that the committee that can best deal with that is one that already exists and already works, that is, the joint occupational health and safety committee. We are saying to them: "Let us participate with you and explain the program. We will see what we can do about helping you to place some of the people who are disabled by your very company and your very industry."

You are concerned to what extent we are involved in these kinds of programs, and I am trying to tell you that we are very much involved with these programs. We hope not only to continue that, but also to expand it. If we are going to cover 12,000 employers, we are going to need some people to do that and we will have to find a way to accomplish it.

There was mention of an Orientation to Change course. You were talking about motivating or facilitating an adjustment for people who have been disabled for quite a time. You referred to Hamilton and to Mohawk College. We met last week with the Steelworkers local from Hamilton, which originally got involved with the Canada Employment and Immigration Commission, which was responsible for setting up the program at Mohawk called Orientation to Change.

We have been discussing with them the possibilities of having WCB-rehabilitated people participate in that program to make the change, and it looks relatively positive. They have only been going since September 23. This is a relatively new project. So what am I telling

you? We know about it, we have talked to the union, we have talked to CEIC and we are looking into what Mohawk is actually going to provide. If it seems a viable solution to us, then it will become another one of the agencies we would use for that purpose.

We have been working with Humber College which has a program called Industrial Orientation Special Needs. From what we can gather, it is a similar approach to what is being discussed in Mohawk's program. Since that program started in January 1985, we have had 18 people go through it and we think it is helpful.

3:30 p.m.

Mr. Martel: Have you monitored the 18 to find out what happened to them?

Mr. Darnbrough: We are going to do that. Since January I have not, so I cannot answer your question precisely. These kinds of referrals to agencies and monitoring are things we definitely want to do. Of course, the role of the rehabilitation counsellor in the first place is to help people adjust to their injury, to help people who have been out of employment for a long time to go through the necessary processes to prepare themselves for employment again.

We have talked about some of these processes already. We teach them how to look at the employment market, to prepare a résumé or for an interview, to complete job applications, to project an image, to concentrate on the skills they still have, to understand the limits of their abilities and to know their interests and aptitudes. Aside from going to community colleges, we have things in place to help workers to come to these conclusions.

One of the things we have introduced lately is called Choices. As you might assume by its name, it is a system-wide program which helps people to make choices. We have put that in at the Downsview Rehabilitation Centre. If it works the way we expect, we may well have it in other offices around the province in due course. It is available through some of the CEIC offices at the moment. It is limited to some degree, but it also helps the disabled to focus on what they expect in terms of employment.

Decisions that might seem routine to us need to be addressed by people who have become partially disabled and who have not been employed for two years. Where would I like to work? Do I like shift work? Is evening work all right? What sort of dollar range am I looking for? Do I prefer clerical work or labouring work? Can I handle either of those in my condition? There is a whole sequence of questions one has to ask

oneself. Do I like to work outside or inside? Do I want to be in a supervisory position or do I prefer to have less responsibility than that? We help people to come to some conclusions about where they want to work.

Another group experiment we conducted in Windsor earlier this year had some very positive signs. Both the job-club approach and this group approach to job-search techniques are being reviewed to see what we can do to utilize them more extensively across the province. Both look very promising. The group that participated in Windsor was certainly enthusiastic. They felt it was beneficial. They felt the counsellor who worked with them helped them to accomplish some things towards adjusting to their injury after a long period of time and in looking for employment.

While we are using community colleges, we will use other agencies wherever they exist, or we will attempt to do these things directly through our own counselling people.

The next item I have referred to the right-to-work legislation. You will recall the minister's opening remarks with regard to reinstatement legislation. I need not comment further. The minister sees this as one of the challenges and mentions other incentives and disincentives, if you like, for employers. He challenges us to be innovative and to develop policies and employment strategies that will help us to succeed in placing disabled people. The challenge is there and we welcome that.

There is no question that the board must find work. The board must help people find jobs. We have had an active group of people employed to do that since about 1978. We have expanded it ever since. The statistics of locating job opportunities have been recorded in annual reports over time and we work very hard at finding those job opportunities.

Mr. Martel: But you will agree that in your report, Mr. Darnbrough, you do not indicate very clearly the type of work. You do not indicate the salary. You do not indicate that at the end of a year or so you have cut off the supplement, I am told.

I would like to know, and it is the board's responsibility to indicate, what happens to workers and the types of jobs and the loss of remuneration that occurs with the help of the board. It might be great to have a statistic that says we have 500 people back to work. It would not be so great if it said that on average workers earn \$3.50 an hour less than at the time they got injured or that previously they had a job that was

interesting and what they have now is a dead-end, dull and boring job, one a chimpanzee could do.

They found out in Sweden, for example, on the Volvo car line, that they had to start rotating workers around to eight or nine jobs. Otherwise, the brightest people became so bored they could not tolerate the job.

What happens to people once they have been injured? If you have a lifestyle in which you have bought a home, you have three children and then your average income drops \$20 a day, what happens to the home and the kids you were helping to get through university? Do you do that kind of an analysis?

Mr. Darnbrough: May I come to your question? We are going to deal with these points you presented, and I would like to deal with them in sequence. We are talking about jobs and I will be able to give you at least as much information as we have available in that area. You already know I am not entirely satisfied with the information we have. That is one of the reasons we implemented a policy and program development section this year. We are going to be working on that. I will definitely come to your question and give you the information we have.

There was a comment made about the pressure to show results. You meant that in a positive way. Certainly there is pressure to show results. I am not embarrassed to say there is pressure on vocational rehabilitation counsellors to show results. I want them to be positive results. We want people to be returned to employment; that is why we are there. I do not want there to be pressure, as was implied, to close the case, to get them off workers' compensation and on to Canada pension plan or something like that. That is not what we are in business for. Perhaps we have already spoken to that enough in the question on attitude.

The next theme of your observations was that we just send people to apply for jobs, that they are given a copy of the newspaper and asked to go and look for work.

Mr. Martel: That never happens?

Mr. Darnbrough: You asked how many people get jobs on their own. I have just spent some time explaining to you that we have been involved rather extensively with people in job-club settings and that we have employment specialists and other counsellors around the province. We accept responsibility for helping to find job opportunities for people who are ready to go to work.

It has happened in the past that someone was told: "Go and look for some jobs. Read the newspaper. There are job vacancies and we would like you to go and look for some." That is not the approach we would like our counsellors to take. That is not how the counsellors are trained. That is not the policy we have in place.

We would prefer the counsellor and the injured person to look at those newspaper ads together. They should also look at organizations and companies in their neighbourhood that are offering the kind of work the individual is looking for and is capable of doing. Between the two of them, they should contact likely companies. That does not happen every day. Counsellors are busy people, but that is the approach we would like to take.

3:40 p.m.

Mr. Martel: Do you know how we keep workers on when they are getting cut off supplement? We tell them to go out and contact any 60 employers. The same guy says: "You have to be co-operating. If you can show 60 employers you have contacted, the chances of keeping your supplement are much better."

I disagree with you slightly about what is happening. We have seen far too many cases where people have been told they are not co-operating. I was told that by the 22 groups I met with last week. The worker is told, "Go out and get the employer—it does not matter what employer—to sign a form that you were there looking for work." That keeps him on his supplement. Otherwise, he is cut off. That does happen.

Mr. Darnbrough: I am sure that has happened. I do not think it is frequent. The unco-operative category is not one of our bigger categories of closure.

The point we are trying to make here is that this is a co-operative effort between the worker and the counsellor. The very nature of a special supplement under our act, by the words in the act, make co-operation mandatory. How do you measure co-operation? In the past all too often the question has simply been, "Can you hand me a job list?" Let us be realistic. I could walk along Bloor and come up with 60 addresses of doors I knocked on, confectionery stores, cleaners, the grocery store, etc. I could come up with a list of places I had been. That is neither realistic nor practical. We know it is not going to be an indication of genuine co-operation by a worker.

Mr. Martel: But what happens when the worker is threatened and somebody suggests he is not being co-operative because he or she

cannot come up with a job? What are the ways to keep the supplement?

What worries me about rehabilitation is I am still convinced what I said goes on to some degree. I am also convinced that you are understaffed and this is what happens. I am also convinced that unless we do this—and I do not like doing it, but I do not know what to do with a person with an income of \$221 a month on some rinky-dink pension he has for a 15 or 18 per cent back injury.

In my own area I do not feel there is enough utilization of the educational system—because there are no job opportunities—to get people some alternative form of employment. It is not easy in Sudbury. Looking, for example, at the 1968 statistics on education levels, they average grade 7. I recognize the difficulty, but there is a real reluctance to give that type of training in Sudbury with 15 per cent unemployment. It is difficult and you people are going to have to do more than that.

You use all kinds of fancy jargon. One word is "unco-operative." When you are playing around with the March of Dimes—what is the word you use about a worker who is being terminated? One of the workers yesterday told me the word that means you are really writing them off, and some of the testing is done through the March of Dimes. I forget what it is, some silly word which means, "Zappo, you are dead."

Mr. Darnbrough: I appreciate what you are saying. I know, when you tell me this is how we keep people on supplements, it is not being done to create some false impression of co-operation. In addition to what you might be doing in just finding names, we are genuinely suggesting that they co-operate and concentrate on becoming employed, on taking their interviews and their appointments seriously and attempting to find jobs.

You also raised the question of training. In the context of whether we make use of post-secondary education, community colleges and universities, yes, we do. In 1984, 309 people participated in academic upgrading at the post-secondary school level. The bill for those courses was \$750,000. Yes, it takes place.

You have to take that kind of educational upgrading or training very seriously. It is long-term training. It is not for everyone. It requires a certain entry level of academic skill to begin with and it is a long, tough grind. It is not easy for people who have been out of the school system for 10 or 15 years, in some cases 20 years, who are getting on a little bit in life and who

really do not want to go to school with their son or daughter. We have to be fairly realistic in taking that approach as well.

The answer to your question is that the numbers are here. We do take people, educate them and provide them with training at the community college and university level.

Mr. Martel: Did you say 309?

Mr. Darnbrough: Yes, 309.

We will be coming back to one of your other questions to do with other training courses and assessments.

There was a series of questions that related to wage loss on return to work. We just touched this topic briefly a moment ago. In complete fairness, I am satisfied that we do not at this time capture enough information about earnings upon return to employment. It is not one of the things we have been especially good at capturing. It is a weakness and we are addressing it in a number of ways.

For almost a year and a half now we have been attempting to develop a computerized system that will take all rehabilitation cases. We need much larger samples than the kinds of things we are doing now. We need to establish a data base that will allow us to identify every element of the case that we possibly can, from the age of the person, sex, background, education, skill levels he has, occupations he has been involved in, type of injury and degree of payment of permanent disability that exists, right through to the type of employment he ends up with, the type of earnings he ends up with and how long it took us to do all those things.

The thing that never ceases to amaze me in attempting to get to the world of computerization is how long it takes to build the front end of that process. Our first phase of that process began in July of this year when we entered some basic data about past vocational rehabilitation cases. It does not deal with the issue of earnings at this stage.

The next phase of the introduction to this computer system takes place in November, when we add on those cases with which we are currently dealing. There are some 9,000 of these cases at present. As that system continues to develop and expand, I feel confident that we will be able to answer those kinds of questions more specifically.

Mr. Martel: You have 9,000 cases. How many rehabilitation officers do you have?

Mr. Darnbrough: There are approximately 170 counsellors who are providing field work service at present. There are a variety of specialties of counsellors in there, so if you are

going to divide that, the answer you came up with, I would like to tell you—

Mr. Martel: Fifty-odd cases per person.

Mr. Darnbrough: I do not want to mislead you. It is higher than that. The field counsellors who deal with full case loads, not the specialists or those in preliminary counselling, have case loads, on average, of 73 people at present. That is the average in the province.

Mr. Martel: Is that one of the weaknesses, though? No discredit to any of your staff, but is that not one of the weaknesses? If you are trying to place an injured worker, it is difficult; I do not pretend it is easy. They do not have the time necessary to devote to those individual people who have been seriously injured. Do they have sufficient time to spend with them and get them going in the right direction, go out with them maybe, take them by the hand, if need be, for a while? It just seems to be a very large number of cases for one worker who is working in a really tough field.

3:50 p.m.

Mr. Darnbrough: That is an obvious problem, not just in Ontario but across the country. Consequently, we raised it at the annual session of vocational rehabilitation directors for compensation commissions across the country. What we came down to was that we have a very wide range of case loads across this country. There are many reasons for this.

They may be simple things like geography. A reasonable case load for someone in Dryden is not a reasonable case load for someone in Toronto. The difference could be as many as 15 or 20 cases. The type of disabilities we are dealing with affect the case load the individual could have.

The employer or employers in the community can make a difference. For example, a counsellor in Hamilton might have 30 per cent of his case load involved with one large steel company in the Hamilton area. Everyone in the community knows those people are going to go back to work the instant that industry says, "We are going to take you back to work." The degree to which the counsellor has to provide counselling is considerably reduced. The case load there might be much higher.

For practical purposes we have said in Ontario that we think a case load around 60 to 65 per counsellor generally is reasonable. Again, many factors come into this, and we need to take those factors into consideration.

When the case loads started to increase in 1984, we adjusted by adding counsellors. When the case loads started to increase again in 1985, we adjusted. In fact, the very latest thing is that we are bringing 12 more counsellors on board, six in October and six in November, to help reduce some of the case loads. These people are being recruited and will go into training within the next month or so. They will be ready for case loads by the end of the year and, in fact, will be on case loads by the end of the year, I hope.

Yes, case loads are a problem. Devoting enough time to an individual is a problem. Dealing with the type of disabilities can be a problem. If the nature of your case load is such that half your cases involve serious disability situations requiring a lot of supportive counselling, family counselling and financial counselling, you certainly do not want 75 or 80 cases. In some other situations 80 is probably a reasonable number.

With respect to your question on how much people earn after the process has ended, and I do not want to try to escape it, but the kind of information I have is about average earnings. I will give you this for the time being until we can get more precise information.

The average wage for new job opportunities listed through our job opportunity bank was \$6.50 per hour, or \$260 a week, \$13,500 in round figures per year. That is the average of the job opportunities where we entered them into our system. That is a total of the 4,820 that are mentioned in the annual report.

I think you were concerned as well about how many of these jobs were at minimum wage. An analysis of those indicates that eight per cent were in the \$4-or-lower range, into the minimum-wage range. We took just the straight \$4 minimum wage and did that. About eight per cent of those were in that category.

Mr. Martel: How long do you keep their supplement going?

Mr. Darnbrough: We should not confuse anybody here. The rehabilitation supplement is administered by the claims services division. That is not a cop-out; I am going to answer your question now. The process is that supplements are generally awarded, as Mr. MacDonald mentioned, on a one-year basis and are reviewed at that time. I think he mentioned as well that something in the neighbourhood of 36 months is the time when another major review takes place to ask, "Is this really a temporary situation and should it continue?"

The supplements were introduced in 1974 to provide additional economic support as a rehabilitation measure. If we put people back to work and they do not earn as much in the second job as they did at the time of the accident, the supplement can come into play to help make up that difference.

Mr. Martel: How long does that last?

Mr. Darnbrough: That is the time frame I just mentioned to you.

Mr. Martel: That is for one year.

Mr. Darnbrough: It can go for a year; it can go for up to 36 months. The claims people will, of course, make those decisions based on the reports from us—that is, from vocational rehabilitation—and they will make decisions that come from the worker and the new employer about how much that injured person is earning.

Mr. Martel: If he is making \$4 an hour and he was previously making \$9 an hour, what is the motivation to stay at work? He is making less than on welfare.

Mr. Darnbrough: They would be getting their full compensation rate. I have a great deal of faith in these people, as you do. People really do want to work; they want to contribute. They do not want to be on the dole. I think any opportunity you provide for someone to take on employment, to be constructive and contribute to society, is good. I find that the people we are working with want to go to work.

Mr. Martel: That is right.

Mr. Darnbrough: I am saying to them: "You can go to work and it will not cost you anything. You are going to get your wages from the job, and the supplement will keep you up at least to your total compensation rate."

Mr. Martel: For one year.

Mr. Darnbrough: Or 36 months, and then they can look at it.

Mr. Martel: Or 36 months. But still at the end of the one year or the 36 months, his average take-home pay, if he had been making \$9 an hour, could be \$200 a week, or \$10,000 a year, less. Why is this injured worker, working for an employer, penalized so heavily? That is the question I am driving at.

Mr. Darnbrough: The position I hear you suggesting is that supplements should not be stopped at 36 months.

Mr. Martel: I think you are hearing me correctly.

Mr. Darnbrough: I think I heard Mr. MacDonald say yesterday it is a review that takes

place at 36 months, when some decisions have to be made about whether this is really a temporary situation. That is what it comes down to.

Mr. Ramsay: How many supplements are being paid after 36 months?

Mr. Darnbrough: As I said, it is not within my jurisdiction. I do not have the numbers at this point; I do not know. I am sure we can get the number for you, and Mr. MacDonald will provide that directly to you. I will ask him.

Mr. Martel: Would you agree that they should not lose money?

Mr. Darnbrough: I absolutely agree that they should not lose money. The whole thrust is to get people back to at least where they were at the time of the accident. That is where we are. When I talk to you about these rates or the average salary for these jobs, I am talking about the entry-level position. You hope that after three years of being in the same employment they are going to get at least some kind of annual increase and that they are going to be taken on permanent staff after the first three months or six months, or whatever the probationary period might be, and that their salaries will be increased at that time.

Clearly, the idea of a supplement extending for 36 months is to keep the income relatively stable while the salary increases or while the person gains in expertise and moves within the corporation.

Mr. Martel: By this time next year we will have your computer system in place and we will know what is happening to those people who have gone back to work.

Mr. Darnbrough: There are some other salary elements here that I can report on. We have a small sample survey from early 1985, which indicated that for those who returned to their accident employer, the salary was \$400 per week on average, or \$20,800 per year, to round off the numbers for you. That probably underlines our interest in having people back with the accident employer.

If the job opportunities we are talking about are averaging \$6.50 an hour, or \$13,500 a year, and if we can say at the same time that those we get back into some type of suitable occupation within the firm they were working for at the time of the accident were all the way up to \$20,000, it is important to do that.

Of those who went into new employment—the whole package, not just those in the 4,800 jobs we found—the average was \$294 a week, or \$15,000 a year.

Mr. Martel: Do you know what their salaries were before they got injured?

Mr. Darnbrough: These are the kind of data, the kind of statistical process that we need to become involved in now. We are gaining, but we are not there.

You asked me something about the nature of the employment that people return to, and I will give you these numbers.

Mr. Chairman: Excuse me, Mr. Darnbrough. Is your supplementary appropriate here, Mr. Callahan?

4 p.m.

Mr. Callahan: I asked for a supplementary a long time ago. It dealt with the question of what other sources they use by way of counselling. I gather all these people you are talking about, the 136 or whatever they are, are full-time employees?

Mr. Darnbrough: Counsellors, did you say?

Mr. Callahan: Yes.

Mr. Darnbrough: I think I said 170.

Mr. Callahan: Whatever the number was, they were full-time employees.

Mr. Darnbrough: Yes, full-time employees.

Mr. Callahan: Have you ever gone out to sectors such as the employment centres that operate in centres in many ridings to get some assistance on some sort of contractual basis? The Ministry of Labour contributes certain sums to operate these and, from what I can observe of them personally, they seem to be involved in trying to help people get back into the work force with respect to where the jobs are, how to write a résumé and all the rest of it. Do you ever use that type of centre?

Mr. Darnbrough: Yes, we do. Our people have constant contact with those kinds of organizations. We do not use them precisely or specifically for the placement of industrially injured people. They are essentially structures, if I am thinking of the same ones you are, that deal with the disabled population in general: the developmentally handicapped, those injured in private injuries and congenital disease situations. They do not deal with the industrially disabled; we accept full responsibility for them. We do not make a practice of farming our people out to some other agency and saying, "Here, see what you can do."

Mr. Callahan: Just to go back to Mr. Martel's question, part of the problem seems to be the size of your force, 170 people. It is like probation officers in this province. They are carrying case

loads of 60, 70 or 120 and they are not getting the job done. Have you not looked at a more directed approach, on a contractual basis or whatever, to use these other resources?

I do not think we are on the same wavelength. I am talking about employment centres. Is that what they call them? They call them job centres or job opportunity centres or whatever. There are some set up in my riding. I think we funded them with \$50,000 or something this year, and the federal government used to fund the other half. Now they are being asked to pick up—

Mr. Martel: Those are the help centres for the unemployed.

Mr. Callahan: Yes, the help centres. It would seem reasonable to use every possible resource.

Mr. Darnbrough: I can assure you that we use every possible resource in the community. You will find that those people do not really want to talk to workers' compensation cases. They have got their hands full with all the other people in the country who are unemployed or disabled and unemployed. The ones you are speaking about do not essentially deal with people with disabilities.

Mr. Callahan: No, but what boggles my mind is that you have 100 different areas where jobs are being listed. The federal government is doing it through the Canada Employment and Immigration Commission, somebody else is doing it through something else and if you want to go around and find what jobs are available, you probably have to travel for a full day to all these places.

We are almost into the 21st century. Why can we not get this all on computers and know where these jobs are and what their nature is instead of having them all over hell's half acre? It would improve your position in trying to get these people back to work.

Mr. Darnbrough: I appreciate what you are saying, and it is a direction that the employment counselling people need to take generally. There is not the element of co-operation and totally shared job opportunities that there might be and will obviously need to be in the future as a national project, not simply dealing with local situations.

Mr. Ramsay: Maybe I can give a suggestion to Mr. Darnbrough that we are all probably in agreement that we need at least a few more than the 170 vocational rehabilitation counsellors we have on staff now, and maybe we can convince the boss to hire a few more. Maybe we should

look at training and hiring some injured workers to do some of that work, too.

Mr. Darnbrough: That has been done. A number of our counsellors are rehabilitated injured workers.

Mr. Ramsay: If anybody would have empathy, they would.

Mr. Darnbrough: That is certainly it. We have quite a number of people who come exactly from that background who have moved into the social sciences, have gone through the community college or university level and are now working for us as vocational rehabilitation counsellors.

Mr. Martel: I want to back up for a moment. You told me you had 305 students going through upgrading last year and the cost was \$750,000. If I calculate correctly, that is roughly \$6,000 a year for somebody to go to university. The state puts up a pretty big chunk of that cash. Let us say \$6,000, but not all by the state. We are then looking at \$1.8 million.

I am always surprised at how we think that is a lot of money to rehabilitate injured workers, but we plough it into universities or post-secondary education for other people who are not even injured. That is what worries me about the reluctance to train or retrain, using the educational institutions of the province. I do not find \$750,000 a lot of money for 305 students if we are going to get them back to work or if we are going to upgrade them.

We are spending that for people who do not have injuries. I suppose all of us in this room have kids at university, or at least some of us are old enough to have them there. The state pays a fairly substantial portion of this. What is a basic income unit worth now for university? I guess it is \$2,200. If you are in medicine, it is seven BIUs. We can find the money in those places, but there is a great reluctance to use the educational facilities to upgrade injured workers. When I look at 305 out of 9,000 people being trained, or your case load, I shudder.

Mr. Darnbrough: The question I answered specifically was about post-secondary education, not training. Regarding the training courses, which we will come to in a minute, we are dealing with thousands of people who have gone through training programs.

Mr. Martel: We will come to that. However, even with post-secondary education, that is not very much money.

Mr. Darnbrough: There is a great deal of money, energy and so on spent in bringing the

people we deal with from grade 3 to grade 8 or grade 10 so they can qualify for their trades licences for which we are about to train them. The 309 are the people at the top end of the scale.

Mr. Martel: That is not very many, you must agree.

Mr. Darnbrough: I was answering the specific question about the community college or university level.

Mr. Martel: Even at that, we are not putting a lot through an area where we could probably put more.

Mr. Darnbrough: I cannot dispute it. I can only explain it to you.

Mr. Callahan: Do you want more BAs and PhDs?

Mr. Martel: I am telling you: neurosurgeons.

Mr. Darnbrough: Neurosurgeons are what we are looking for, I think.

Mr. Martel: Not lawyers, though.

Mr. Callahan: Somebody told me that today the BA means "bugger all." That is what it stands for.

Mr. Darnbrough: The next item Mr. Martel addressed was related to the type of work to which people went back. I will give you the 1983 and 1984 statistics which we have available.

In 1983, the number who returned to the accident employer was 1,320. The number who returned to a new employer was 1,651. The number who became self-employed was 217. The total was 3,188, which is up 17 per cent from the year before.

In 1984, those returning to the accident employer numbered 1,293; to a new employer, 2,162; to self-employment, 259; for a total of 3,714, which is 16 per cent higher than 1983.

Mr. Callahan: Do you pay the supplement to people who want to go out and start their own business? How do you work that? You said there were 250-odd who went into their own business.

Mr. Darnbrough: If the earnings from the new business are lower than the pre-accident earnings rate and the person obviously is co-operating but has a wage loss, then they would be eligible for the supplement, whether they were in a new business, self-employed or with another company. The answer is yes.

4:10 p.m.

Mr. Callahan: Is that actively encouraged? Can a person who is perhaps not able to get into a job and is not prepared to go through this lengthy process, start up his own business? Who determines that?

Mr. Darnbrough: We are not out there encouraging people to become self-employed. I cannot confess to that. It is a difficult situation at best to get into that kind of environment and has been for the last three years.

These people have chosen to be self-employed. We have worked with them to make sure as best we can that they are trained for the line of business they are going into; that they have explored it as a viable business venture; that they have the necessary funding in order to make it work and to get the start-up done; that they have the equipment and the contracts and so on.

Our role as counsellors is to advise as best we can about a new business venture. To say we are encouraging people to become self-employed is not a legitimate claim.

The next issue raised by Mr. Martel dealt with the self-sufficiency category as a rehabilitative measure. He asked me for a definition of "self-sufficiency." In the 1984 report, we indicated that 4,410 people were rehabilitated through the process and that 3,714 of those were employed, and an additional 696 became financially self-sufficient.

This has been and continues to be a contentious closure as a successful rehabilitation measure. The reason it is there comes from defining or describing the circumstances that take place.

In these cases, the worker, usually along with the counsellor, has decided to leave the labour force and will not return to work for whatever reason, and there can be many reasons. It can simply be a matter of the workers' compensation pension, with whatever personal income he has or has saved with rental, investment or whatever, with awards from the Department of Veterans Affairs, if that was the case.

Let me shorten this by saying the individual has reached the stage of life where he can look at his financial package and say: "I am not interested in being further rehabilitated at this point. I do not want to go back to work. I have had enough. I want to cut down a little on my activities and have a less strenuous pace of work."

Mr. Martel: I have heard about that.

Mr. Darnbrough: Today it seems more people are becoming eligible for early retirement packages, company pension plans and so on.

Mr. Martel: Are some on welfare, too?

Mr. Darnbrough: Yes, I would expect that if they make the decision to withdraw from the work force and it turned out their pension payments from the board were less than the

welfare rate, then welfare would make up the rate.

Mr. Martel: Would that be termed self-sufficiency?

Mr. Darnbrough: We will not close that case as self-sufficient unless the worker has agreed that is what he wants and we have, by our own definition, determined with him that his income matches his expenses or exceeds his expenses; in other words, he is legitimately financially self-sufficient. We are not going to leave someone unless he has decided that is the lifestyle he wants and his income matches it.

Mr. Callahan: How do you do that if they are collecting welfare to make up the difference? They cannot collect over the welfare.

Mr. Darnbrough: What I am attempting to tell you is that they will not make the decision in that case and we will not close the case as financially self-sufficient. It will not be in this group of closures. We will be continuing to provide counselling services and the person would not be closed in this category.

If they came to the point where they said, "I am simply not going to co-operate any more; I do not want any more of your rehabilitations services," we will close the case, but it will not be included in this group. In this group, two things are required: the worker wants out because he does not want to participate in the work force any longer and, the most important thing, his income is acceptable for the lifestyle he has chosen and meets his expenses.

Mr. Callahan: Okay. I thought you were saying that if they decided to kick out and they got on welfare and the pension was not quite up to welfare, you would make up only to welfare, and then you said after that you would make certain that even if that was the case, you would provide additional funds to make sure they could meet their expenses. That is not what you said, I gather.

Mr. Darnbrough: No. We would not be encouraging them to withdraw from the labour force. We would not be placing them in this category. We would be attempting to continue the counselling to keep them in the labour force. If they insisted that was not what they wanted to do, their case would be closed, but it would not be in this group. It would be in the other groups of closures, the negative closures not the positive closures. That is what I am trying to say.

It is not a large number. There are 696 people. What is large? It could be large or it could be small. People have reached that stage nowadays

where they can afford to make that change in their late 50s; where they have looked at their income and said, "I am not going to go any further."

In some cases, these people are receiving Canada pension plan payments for disabilities as well as their pension for their industrial disability. Their industrial disability is only one of the many problems they have. They are totally disabled. They know it. They cannot compete and they do not want to compete. We will help them.

Our obligation at this point, when we deal with someone like that, is to make sure they know all the benefits that are available through the social network. We help them to make sure they obtain those benefits from whatever source, whether it is CPP, the Department of Veterans Affairs, local volunteer organizations or whatever.

If that is the choice they make, then we see our role as helping them maximize their income. Only if they have reached this self-sufficient level economically will we use that category to close the case.

If I may deal a little further with the training programs, there are some numbers that will be of interest to the committee generally, as well as to Mr. Martel on his question. It deals with assessments and training programs for 1983 and 1984 in total.

You asked this question in the light of how many of these training programs and assessments were being completed, or what percentage was being completed. The overall percentage of those being completed is around the 70 per cent mark. It changes by a couple of percentage points, up or down, over the years.

The assessments started in 1983 numbered 3,302. The number completed was 2,167. In 1984, the number started was 3,837 and the number completed was 2,686. That is 66 per cent.

The training programs started in 1983 numbered 2,400, including those with post-secondary, community college and university education. The number completed was 1,653, for a 68 per cent success rate. In 1984, the number started was 2,654 and the number completed was 1,793. Coincidentally, it was also a 68 per cent success rate.

I mentioned the other question in the sequence about training programs.

The next one I have is, "Are workers encouraged to lower-paid jobs because they receive supplements?" We have already had the

discussion about supplements, so can I just say, no, and will you let me pass to the next question?

Mr. Martel: Yes, go ahead.

Mr. Darnbrough: "Is part-time work permitted or encouraged?" This question has been raised by a number of factions, on the assumption that the board was not interested in helping people find part-time work. I would like to remove that as a concern to anyone. Part-time work, as far as relocation is concerned, is the same as modified work.

More often than not we are not looking for a complete change of occupation or a complete change of duties. We might be looking at a reduced period to perform those duties. The answer to the question is, yes, we do provide for light, modified employment and part-time employment. We look for those kinds of jobs, enter them into our program and attempt to make them available to people who require that as a form of suitable employment. That exhausts the questions from Mr. Martel.

4:20 p.m.

Mr. Martel: There is one more. May I raise one more? I raised the policy of Mr. Harvey, you will recall. Mr. Harvey is the young man in Elliot Lake for whom you are prepared to pay \$70 a week room and board in Sudbury and transport him home once a month at \$55, for a total cost of \$3,300 a year. He is entered in a three-year course and the cost is going to be \$10,000.

He asked to be relocated to Sudbury with his family so he would not be away from them. The cost to relocate from Elliot Lake to Sudbury would be \$2,000. The board would save roughly \$8,000 over the next three years. The board has said, "No, it is not our policy."

There is another one in Ottawa. I do not have all the details, but it has come to my attention. There is a man from Sudbury, I think, who is now in Ottawa, who is faced with the same sort of ridiculousness. What in God's name are you doing? Blowing \$10,000 to save \$2,000?

Mr. Darnbrough: I am not familiar with the details of Mr. Harvey's case, but I am going to try to explain things, if I may, from a policy perspective, because that is all I can do at this point. I would be glad to take a look at Mr. Harvey's case, and I know you will give me the rest of the details, so Mr. Corbeau and I can share that responsibility and report to you.

Mr. Martel: Somebody had a deal worked out and Sudbury wants to know why. They agree with me. They think the board is crazy, but I will not tell you who.

Mr. Darnbrough: From a policy perspective—and I certainly do not want to prejudge the case—we do have a policy and every policy we have allows for things that have merit to be dealt with and that are exceptions to the exact wording of the relocation policy. The policy is there essentially to help people relocate from one district to another, where there is an offer or an opportunity for employment.

That is the way the policy was originally conceived and drafted. Precisely, it does not say you may relocate for temporary training purposes. It says for employment you may relocate. There is a policy number in the vocational rehabilitation policy manual that is publicly distributed and I am sure anyone who is interested could call that.

That does not reject the case out of hand by saying we will not look at the special circumstances in this case, and I think generally it should be looked at. If something is as simple as you have reported it to this committee and is that straightforward—

Interjection.

Mr. Darnbrough: I never doubted it for a minute.

Dr. Elgie: You will resign your job if it is not true.

Mr. Darnbrough: I refuse to eat the vocational rehabilitation reports if it is. I am unlike my colleague.

Mr. Martel: Corbeau is going to eat his next week.

Mr. Callahan: This debate is getting very fishy.

Mr. Martel: A little tuna.

Mr. Darnbrough: Reasonableness needs to come into play. I think the case needs to be examined, and we will undertake to do that for you. If I may expand a little on the relocation policy, it was conceived to move people from one district to another where there was a job opportunity and to pay for that.

It includes such things as legal fees to sell a house, transportation costs to move, visitation to the new city to find a place to live, some of the real estate costs involved in that, some incidental miscellaneous costs for draperies, appliances, shutting off the hydro, some funds to get them out of the end of a lease, that sort of thing. Obviously, it is described in greater detail in the policy paper, but it was put there essentially to move people for employment purposes.

Mr. Martel: I can see the board not relocating a family for two or three months or relocating

someone going to take one of the courses, say, a six-month course in heavy equipment or something like that. You might go from Sudbury to Sault Ste. Marie where you take heavy equipment. I can see the board not relocating a person there because it could become very expensive, but we are talking about three years here.

Mr. Darnbrough: If it is the normal type of program at that level, I assume the three years includes about nine months away from home. If we were not making reasonable transportation and family contact arrangements in that time, it would be better to do it the other way around. Not to prejudge the case, we have to look at this thing in greater detail obviously.

Mr. Martel: I am sure you will announce next week how successful you were in resolving that little problem.

Mr. Ramsay: I know we have a full schedule next week, but I would be very curious to have an answer on that for Monday morning.

Mr. Darnbrough: I will undertake to see at what stage in the appeals process this is, and if it is not entirely out of our hands at this point, we will see if we can get some reconsideration for you before the next week is out.

Mr. Chairman: Thank you, Mr. Darnbrough. Are there any other questions? Dr. Mitchell?

Dr. Mitchell: Mr. Chairman, there are three very quick things to which I would like to respond to Mr. Martel, if I might, just to close off the business.

Mr. Chairman: You could think of further responses to what Mr. Callahan just said.

Dr. Mitchell: Mr. Martel asked about the timing of pension examinations. From the time the request is made for the medical department to examine an individual pension rating, in Toronto it is a matter of seven weeks. In Sudbury it is probably eight to 10 weeks and in a place such as Thunder Bay, where the rating trips are less frequent, it is about 12 weeks. I think that is as of October 2.

I would not want anyone to leave this committee session feeling there is a crisis with the medical staff of the compensation board. Their competence has been challenged. I addressed it yesterday. I would like to repeat a couple of things again today to point out that we have a dedicated, well-trained, hard-working, impartial group of physicians doing their best. We still have pockets of weakness; it does not mean that we are not going to try to improve, but there is no crisis.

The Ombudsman's report dealt specifically with three cases of hearing loss and the behaviour of one individual—I think I can understand his frustration and his anger—but it was unkind to brand the whole medical services division because of that one individual.

With respect to perception of the workers, no matter how impartial you are, when you have assessed someone, you have treated him and you finally have to make the decision that this worker is well enough or not to go back to work, whether you work for the board or you work in Sudbury as an orthopaedic surgeon, if you make an unpopular decision, the worker says: "This doctor is not good. He does not understand the problem."

That is a perception problem which we know exists and it is one of the dissatisfactions in this job. But I ask you to bear that in mind when you hear these criticisms; it is from where the worker sits. He says, "This doctor did not understand my problem," and I think that is very important.

Mr. Martel: It is more than that. Excuse me, but you know the real problem is the frustration that all of us have experienced here. What it comes down to—and I think that is what Dr. Hill was trying to say too—is an attending physician seeing the patient regularly and a board doctor, without even having seen him, saying from a file, "It is time to go back to work." You may have difficulty convincing me that this is a fair way of doing it.

Dr. Mitchell: I would not want to convince you, because I do not believe it happens.

Mr. Martel: Oh, God.

Dr. Mitchell: No, this is true. What has happened is the family doctor may say, "This patient should not go back to work," but there is always a specialist's opinion to say, "Yes, I think he can go back." If there is a disagreement, we have to resolve it. But we do not take the initiative without an examination, or very rarely is that initiative taken without an examination, to say: "There are two reports saying he is not fit; we will overrule that," because that is folly.

Mr. Ramsay: That is part of the perception by the worker of the board doctor. It is not necessarily that the board doctor has rendered an unpopular diagnosis in that case, a decision against the claimant, but that the family doctor, who maybe because of personal involvement over the years—

Dr. Mitchell: Is sympathetic.

Mr. Ramsay: Yes.

Dr. Mitchell: Sure.

Mr. Ramsay: Sure, that is probably there, but then maybe we also have a specialist's opinion which confirms that opinion. So this really starts to cement in the mind of the claimant that yes, I can imagine this pain rings true. Then he comes to the board doctor, and bang, all of a sudden it is a complete reversal.

Dr. Mitchell: The problem is that the worker does not see the report from the specialist and that is often the initiating factor. The board doctor may examine the patient in those controversial cases and give judgement. That is a different thing.

Mr. Ramsay: You are saying without examination?

4:30 p.m.

Dr. Mitchell: I am saying, without examination it would be folly on the part of the doctor to overrule a family practitioner and a specialist and say, "Judged by no positive report here, I am going to make that decision."

Mr. Martel: I need the chairman of the committee to support me and he is not helping me at all. He and I approached Mr. Alexander, and Mr. Corbeau was there, about December 1983 or 1984. We had Jim Hickey from the United Steel Workers of America there. We had representation from the legal clinic in Sudbury. We had representation from the mill and we had Mr. Laughren and I, and all of us were making the same assertion.

Dr. Mitchell: I would be very happy to look at individual cases for you.

Mr. Chairman: My recollection of the event is precisely the same as Mr. Martel's.

Mr. Martel: Mr. Corbeau nods. He got to you.

Mr. Ramsay: Who is eating what next week?

Mr. Martel: Mr. Corbeau and his colleague. If I can, tomorrow I will phone my assistant to send all that stuff down. We will need a truck.

Mr. Chairman: Are there any further questions? Shall I speak for the committee in saying thank you to the members of the board who have spent their week with us?

Next week, on Monday morning at 10 a.m. we will convene in the Ontario Room at the Macdonald Block to hear the beginning of the submissions next week from the Union of Injured Workers. The board is welcome and I hope that someone will be there to listen to what is said.

Mr. Martel: Someone such as the chairman of the board.

Mr. Chairman: Possibly even the chairman, yes. This room will be used on the weekend so members should make sure they take their material with them.

Thank you very much. See you on Monday.

The committee adjourned at 4:32 p.m.

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Elgie, Dr. R. G., Chairman

MacDonald, A. G., Vice-Chairman of Administration and General Manager

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No. R-7

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament
Monday, October 7, 1985
Afternoon Sitting

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday, October 7, 1985

The committee met at 2:10 p.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984 (continued)

Mr. Chairman: I definitely see a quorum and we will come to order. Appearing with us this afternoon is Richard Blair, who is the co-ordinator of the Union of Injured Workers Clinic, Central Toronto Community Legal Clinic. We invite you to sit down and welcome you to the committee.

As you might know, Mr. Blair, the Workers' Compensation Board is here, including the chairman, and Mr. Polsinelli, the parliamentary assistant to the Minister of Labour (Mr. Wrye); so both the WCB and the Ministry of Labour are represented as well as members of the committee.

UNION OF INJURED WORKERS CLINIC CENTRAL TORONTO COMMUNITY LEGAL CLINIC

Mr. Blair: I would like to take this opportunity first to thank the committee for allowing us to make a presentation this year. We are grateful that we are allowed to be here to present our concerns on behalf of injured workers. Our organization has worked in concert with the injured workers for many years and we feel we have some significant contributions to make to this process.

I would also like to beg the committee's indulgence. I consider myself a member of the category Mr. Gordon referred to last week—people whom he finds generally forthright and loquacious but intimidated by the committee proceedings. With that caveat, I will begin.

The meeting of this committee this year comes at a very important time in the development of Ontario's compensation system. As I am sure you are all aware, after meeting with some initial delays major restructuring of the compensation appeals system began as of October 1 and, along with that, many new procedures and a new era in the administration of the Workers' Compensation Board.

The importance of taking this opportunity to evaluate the board's performance and to rethink

some central aspects of the compensation system cannot be too heavily stressed. The year 1984, like 1983 and preceding years, demonstrated to us once again that there are major problems in the administration of Ontario's compensation scheme that persist notwithstanding repeated efforts to bring these problems to the attention of legislators and administrators. The year 1985 has seen the enactment of very significant changes to the benefits system which, as we are all aware, remained substantially unchanged for many decades.

As of last week, both the WCB and the new offices created in the Ministry of Labour, the tribunal and the workers' adviser, began a process that is widely regarded as a solution to many of the perennial problems of injured workers. Whether these changes will help to alleviate those problems is a question this committee should keep foremost in its mind and which should be foremost in the minds of the WCB administrators as well.

In making these submissions, we do not attempt a detailed exposition of all the problems we faced in dealing with the compensation system over the past year. Instead, by drawing attention to the areas of greatest concern, areas this committee has heard stressed again and again by representatives of injured workers' groups in the past, as well as by the Union of Injured Workers this morning, by members of this committee and by their constituents, we hope to show that the WCB has failed thousands of injured workers in a way that has created a profound lack of confidence in the ability of the system and its administrators to fulfil their mandate.

The problems we will be addressing today include a sorry rehabilitation program that gives injured workers far too little, far too late, and is ineffective in helping injured workers to regain any meaningful employment; board doctors who routinely overrule opinions of injured workers' own treating physicians, in many cases without having examined the injured worker; a pension scheme that is completely inadequate, and pension supplements the procedure for which is a nightmare; delays, which add not months and not weeks but in some cases years to the proper resolution of injured workers' claims; and an

assessment scheme that has failed to maintain an adequate accident fund and allows unsafe employers to continue to ride free.

We urge this committee to consider seriously our submissions and proposed solutions to some of the problems we have observed and to consider seriously the ability of the WCB administrators to alleviate the problems and restore confidence in the compensation system.

We also urge the committee to carefully evaluate the WCB's performance in the coming year as it implements new structures both inside and outside the board. The coming period should serve as a chance for the WCB to prove to us not only its competence but also its good faith in dealing with the compensation system.

I would like to turn first to the problems of vocational rehabilitation. It is our submission that this is one of the most important aspects of any functioning compensation system, and it is our submission that it is one area where the WCB has seriously failed.

For injured workers who cannot return to their pre-accident employment because of the nature or the severity of their injury, a major factor in whether they will be able to move back into the work force in a meaningful and productive way, or whether instead they will find themselves consigned to low-income, dead-end employment, is the degree of effective rehabilitation they receive. That is particularly true in the case of injured workers with permanent disabilities.

2:20 p.m.

In the face of continuing need for more and better rehabilitation, the compensation board again failed to live up to its mandate. As the annual report for 1984 shows, there has been an actual decrease in the number of injured workers referred for extensive vocational rehabilitation.

The board continues to view its role in rehabilitation as one of getting injured workers off the benefit rolls and into the first job available regardless of the wage or the status of that job, with little or no emphasis on helping injured workers develop skills that will allow them to overcome the disadvantages they inherit as a result of permanent disabilities.

The large number of injured workers who cannot return to employment similar to their pre-accident work are thrust into the job market with no new skills, no relevant experience and a physical or mental disability to overcome. Inevitably, they are relegated to low-income, low-status jobs, or to complete reliance on welfare, unemployment insurance or Canada

pension plan benefits, a category the WCB cynically refers to as self-sufficiency.

Many of these injured workers unable to find suitable employment for their disability return to unsuitable employment. The ultimate result of that is a high rate of return to the board's benefit roles as recurring injuries.

Once again, the Workers' Compensation Board report does not provide us with a breakdown on figures of the vocational training or educational programs versus those that are simply training-on-the-job programs or essentially incentives to employ injured workers.

We can say that of the 2,654 vocational programs which would include those training-on-the-job programs, the educational programs have proven to be extremely difficult for injured workers to obtain. Rehabilitation counsellors continue to discourage such training and regard it as a last resort. It is considered only once an injured worker has undertaken a search for suitable employment for a period of at least six weeks, often stretching on fruitlessly for months.

Should a counsellor reluctantly agree that a vocational education program is in order, he has neither interest nor apparent expertise in helping injured workers select an appropriate program. Instead, he insists that the worker go out, think about it, find a program he is interested in and find statistics on the program, including the statistics of job availability, placement statistics from the college the worker might be looking at and remuneration information.

Even following this, supervisory personnel in the rehabilitation branch often reject or delay the training. In many cases, this can result in missing a college application deadline. Another six months or a year can pass before an injured worker is able to enter the program he has chosen. Inevitably, that is a year spent pounding the pavement looking for jobs which, for many injured workers, do not exist.

There are several measures which, if implemented, could result in much more effective rehabilitation. Both the WCB and injured workers in Ontario can gain by concentrating on providing injured workers with marketable skills through education and training. The net result of this will be more placements in higher-paying jobs with less risk of reinjury. This could have the added benefit of reducing wage loss supplements payable by the compensation board, as well as payments necessitated by the recurrence of injury.

An improved worker-counsellor ratio is obviously necessary. Figures offered by the compen-

sation board last week before this committee show a ratio of about 73 workers per counsellor. That is far too high. The board indicated that 60 to 65 workers per counsellor would be appropriate. Recent studies on compensation board rehabilitation in other jurisdictions suggest that a much more appropriate ratio is about 50 workers per counsellor. It seems relatively unproblematic that more counsellors are going to help in more effective rehabilitation efforts.

A relationship of confidentiality between a worker and a rehabilitation counsellor is imperative. Counsellors are supposed to be there to help workers, not to control benefits. Many injured workers have come to me frustrated. They become angry after pounding the pavement for a year not finding a job. They have told their counsellors they are fed up in a fit of frustration and anger. The next thing they know, benefits are cut off. We do not consider that appropriate; and we do not consider the appeal process, and the kind of finagling we have to do to get those benefits back as a result of a little bit of frustration, to be at all appropriate.

To allow the injured worker and the counsellor to conduct a relationship in confidence, where notes of discussions between the two of them do not go straight into the claims file, would enhance the degree of confidence and trust that injured workers place in their counsellors. They could then realistically approach and discuss their problems, frustrations, discouragements and their employment goals without fear of triggering a cut or reduction in their benefits.

We also feel that improved counsellor access to information could go a long way to helping vocational rehabilitation. The WCB, of all places, is ideally located to be a repository of information on upgrading programs, vocational training programs, job prospects, etc., in Ontario, including placement from colleges and remuneration statistics.

Currently, the board does very little in this area. We are reminded of situations where we have had a case worker, in aiding an injured worker, call up a college and say, "We have convinced the compensation board to help us with the upgrading program, what have you got, what programs are there, etc." The college person comes back to our case worker and says: "Why the heck are you doing this? This is what rehabilitation counsellors ought to be doing." We agree. Surely, if WCB counsellors had ready access to that much-needed information the task of helping injured workers find appropriate programs could be undertaken with relative ease.

We believe that early intervention by the rehabilitation department is absolutely crucial in a large number of cases. Information that comes in at the outset of a claim can clearly indicate that a worker is not going to be able to return to the preaccident employment. A paradigm example might be a professional musician who has an accident and maybe has his hand or fingers damaged. We know right away he is not going to be able to continue with his career as an accordion player.

The rehabilitation department should get involved at an early stage in looking at options such a worker might be able to pursue once recovered from the injury or to whatever extent he had recovered. Immediate assessments of rehabilitative needs of workers should begin at the beginning of the claim when we can see that the worker is going to need to be streamed into a rehabilitation process.

Early involvement of rehab services in a claim will help to ensure that workers who are dislocated by industrial accident or industrial disease will benefit from the swiftest and most effective return to the work force.

In addition, studies show that by identifying cases where rehabilitation is needed at an early stage and applying an appropriate program, significant cost benefits can be realized. Recent studies in the United States show that for every dollar spent on this form of rehabilitation, cost benefits of \$4 to \$12 can be realized in the long term. Studies in Manitoba show that to be \$4 to \$7 for every dollar spent in rehabilitation. That is something the WCB should come to recognize.

We feel the problems involving vocational rehabilitation at the board are great. We feel it is essential to have a manageable compensation scheme that does help get workers back to work. Rehabilitation is central to any workable compensation scheme.

The type of concerted effort necessary in re-evaluation of the efforts of the WCB is going to take imagination and a great deal of commitment. The board's past failure to engage in truly meaningful rehabilitative efforts, notwithstanding its relatively high budget, indicates a solution to this important problem must lie beyond the compensation board's administration.

It is for this reason we reiterate the demand put forward by the Association of Injured Workers' Groups that an independent commission of inquiry, comprising labour and industry representatives, be established to thoroughly canvass WCB rehabilitation practices in the context of

future improvements and to make recommendations to the government.

2:30 p.m.

Such a commission of inquiry has recently proven very beneficial and successful in Manitoba, and I urge this committee to think seriously about establishing something similar here in Ontario.

I would like to turn from rehabilitation to the problem of Workers' Compensation Board doctors. We have heard stories, last week, this week, this morning, and probably for many years in the past, about board doctors. It continues to be a major source of problems in compensation claims and where major reform is needed.

At the outset, I should say that while encouraged by the establishment of the independent panel of medical practitioners, the fact that it has been established underscores what we have been saying for years, that there are problems with board doctors and a need for independent referral of medical issues. However, the Bill 101 reforms do not do the job.

First, the possibility of referring medical questions to the panel is not realized until an injured worker has exhausted his or her rights of review and appeal within the Workers' Compensation Board and taken the step of initiating proceedings before the appeals tribunal.

Second, the use of the panel is at the sole discretion of the appeals tribunal. There is no right established by Bill 101 for injured workers or their representatives to make use of the panel without the appeals tribunal making a prior determination that a referral to the panel is necessary. It is abundantly clear that the system is not going to obviate the need for significant changes relating to board doctors within the Workers' Compensation Board itself.

The problems we observe with board doctors are manifold. First, the area probably causing the greatest number of complaints this committee has heard a great deal about is that the board continues to accept its own doctors' opinions over those of outside specialists who support the claim of the injured worker. We see it all the time, and if it is not happening it is surely a surprise to us.

I have seen cases. I have actually gone to the appeal board with a family doctor and two well-recognized specialists sitting right there in the room, saying "X, Y, Z, this worker should be compensated"; and the board looks at its own doctor's report in the file and says, "No way."

That is the case where the claimant has several specialists who are well-recognized and respect-

ed in their fields supporting his position and it is ridiculous. Additionally, board doctors who are not specialists in a given field often overturn recommendations of outside doctors who are specialists.

Mr. Martel: Can I interject there? I do not want to, but you heard last week that I said the same thing. I do not know if you heard Dr. Mitchell's response. Dr. Mitchell categorically denied that. Dr. Mitchell went after the Ombudsman (Dr. Hill). He said the Ombudsman's statement was irresponsible. Are all of us crazy except the Workers' Compensation Board?

Mr. Blair: It is one of those situations where it seems as if the only people marching in step are the Workers' Compensation Board and the rest of the army is marching out of step. We have heard it again and again. We see it in our files. We hear it from injured workers. We hear it from the Ombudsman. It is news to me to hear Dr. Mitchell say it does not happen.

Mr. Martel: Me too.

Mr. Blair: I do not have a lot of faith that it is not happening. All I need to do is turn to my files or the files of case workers in our organization or have discussions with other case workers and it becomes apparent that it is a real and ongoing problem. All we have are the files in front of us where we cannot believe our eyes and ears.

Mr. Martel: It is driving me crazy, too, I can assure you; especially the denials.

Mr. Callahan: You say you have all these files of this and I do not doubt it at all. I sit on the standing committee on the Ombudsman, too. Have any of those ever been sent directly to the chairman of the Workers' Compensation Board? Have you said: "Hey, here is case A. Here is what was said."

Mr. Blair: The member for Sudbury East is the appropriate person to answer that.

Mr. Martel: I sent one letter to the chairman—let me just answer. I am dead serious.

Mr. Callahan: Just a second, I am asking a question here. We are hearing it from the Central Toronto Community Legal Clinic, which obviously sees a lot of these people. I am a firm believer that legislators do not have all the answers. All I ever hear are gripes from people who they never bother to send a positive statement. He should have a file a mile high. Have they been sent?

Mr. Blair: In many cases they have been sent.

Mr. Callahan: They have.

Mr. Blair: We have sent them.

Mr. Callahan: So they are on file with the former chairman or were on file?

Mr. Blair: They should be. We do not send every case, but we do send letters periodically outlining cases where we feel it is absolutely unacceptable.

Mr. Callahan: Is the specific name of the doctor whose opinion they have taken referred therein?

Mr. Blair: It is and it is always available within the claim file as well. We know the chairman of the board in those circumstances has access to those files.

Mr. Callahan: It would seem to me as a layman, if I were in a medical situation where I found a doctor was rendering decisions or opinions that were harming me as an individual I would be reporting him to the appropriate people to see that he was removed.

Mr. Blair: There is a problem in removing them. You heard it from Dr. Mitchell. If you ask three specialists a question you will get three different answers. So we might send letters off saying, "This is dreadful and terrible and look what has happened." We get a letter back saying: "We reviewed the situation and you are wrong, it is not so dreadful and terrible. We feel our specialists are competent and well trained and this, that and the other thing and that is the end of it."

Mr. Callahan: Supplementary to that, if I may, Mr. Chairman.

Mr. Chairman: After that we should let Mr. Blair finish his presentation and then go back to questions. Go ahead.

Mr. Blair: Go ahead Mr. Callahan.

Mr. Callahan: I initially asked that question to ask the second question. In sending that information forward at that time to the board, did you feel it would jeopardize the claimant's position in future appeals? He had sort of told, as it were ratted on the—

Mr. Blair: We look at each case very carefully and that consideration does enter into it. If we have reason to believe we are only part way through the appeals process, and by doing that we might stir up a whole hornets' nest that is not going to help us at higher levels in the appeals process, you would have to agree we would be crazy to send that letter when we really do not know precisely what is going to happen. That is how we look at it. If we feel there is going to be some jeopardy to the client's interests involved,

we do not say anything; we cannot. We wait and see it through the appeals process and hope we can compile more medical evidence. We hope we can convince the board.

Mr. Callahan: But it is not carried to the extent that you feel your credibility in representing these people before the board by making a complaint on behalf of any claimant would affect the next case you argued before the board.

Mr. Blair: It is something we weigh very carefully. We have to maintain the integrity of our clinic and we have to maintain the integrity of the appeals procedure in any given case. We weigh all the factors and sometimes they are pro and sometimes they are con.

Mr. Callahan: Thank you Mr. Chairman.

Mr. Blair: Another serious problem we have noted is that board doctors make what seem to us to be essentially diagnostic determinations often without having had an opportunity to examine the injured worker. This is conceptually irreconcilable with professional standards which assume that a doctor-patient relationship must exist before an effective diagnosis can be made.

Of particular concern in this regard are cases involving psychological disabilities. This committee can understand a large element of subjectivity is necessary, and an in-person examination of the claimant is essential in those cases.

Yet another problem is that of referring a file from an appeal for comment by the same board doctor who has made a negative decision in an earlier stage in that claim. I will be dealing with that problem in a little more detail when I get to the section regarding appeals.

At any rate, it is clear from the experience of injured workers, from us as their representatives, from many members of this committee, many of whom have had more years of experience in dealing with compensation claims than I have, and from perusing the annual reports of the Ombudsman, that this remains a real problem and reform is long overdue.

As an absolute minimum in this regard, we propose as some possible solutions, that first the board regularly publish a listing of its doctors and their areas of specialization and make that readily available. We would ask that only those board doctors who are recognized specialists in an area be permitted to give opinions in that area.

2:40 p.m.

We would ask that written guidelines be promulgated which will place constraints on a board doctor's ability to diagnose without having

examined a claimant and to define the appropriate scope of comments in situations where no examination has been made.

It is one thing for a board doctor to read over medical reports of outside doctors and say, "My textbook tells me they should have looked at six factors and they have only looked at five; there must be something wrong." It is another thing for a board doctor to flip through a file and, having never seen the claimant, say, "I do not see how we could possibly arrive at a diagnosis of a psychological disability."

Those are conceptually distinct and I think the board has an obligation to make sure the board doctors do the former and not the latter.

We also ask that, in cases of disagreements between board specialists and outside specialists, a case should be referred to a third independent specialist acceptable to both parties. I am not even asking that be a binding settlement by a third party, but it is important the board recognize that an independent assessment would be of great value in taking these cases to appeal.

We would also ask that, where an injured worker so requests, the board doctor be present at the appeal of the injured worker's case to explain the basis of his or her opinion. Right now, when we go to an appeal, we are shooting in the dark; we would like to be able to ask board doctors how familiar they are with relevant literature on this or that and ask them what information they kept in mind when they were making their decisions.

I would like to turn now to some problems in the administration of pensions and pension supplements. It is clear, and I am sure the committee will agree from listening to injured workers this morning, that there is a necessity for a comprehensive and immediate revision of the pension rating schedule, or the meat chart.

As this committee has been told in the past, the ratings, particularly for low back claims, remain unrealistically low. Current ratings of 15 to 30 per cent in no way approximate the actual impairment of earning capacity of an injured worker with a low back disability; it is just unrealistic.

We are encouraged by Dr. Elgie's comments to the effect that the compensation board is speaking in terms of revision of the meat chart which could potentially include components for loss of enjoyment and for pain and suffering. In spite of this, we maintain that in addition to any loss of enjoyment or pain and suffering as components, an overall increase to reflect earning impairment is necessary.

There also continue to be massive delays in getting pension assessments where they are necessary. The board assures us that they are planning to cut that down and we can only have faith in them. We are often powerless to do anything else, but I would urge the committee to make sure that is a priority matter, to make sure we can get necessary pension assessments when they are needed and not three, four or five months down the line.

I would like to draw the attention of the committee to another problem, one that is not outlined in my brief today, and this may be a little picky. As this committee may be aware, in June 1983, the compensation board instituted a policy of considering receipt of Canada pension plan disability payments as an absolute bar to receiving pension supplements. Subsequently, that was reformed in Bill 101. Subsections 45(9) and clause 136(5)(d) both say that receipt of CPP disability is not to be an absolute bar to receipt of pension supplements.

The Association of Injured Workers Groups took that issue to appeal and were successful in convincing the corporate board that injured workers who had been denied supplements between June 1983 and the passage of Bill 101 on the basis of receipt of CPP disability would, in fact, be entitled.

The problem we perceive, and maybe the board will correct me on this and say they have made an effort, but as far as we can tell, there has been no effort by the board to isolate files where people were denied pension supplements on the basis of CPP disability benefits and to make sure the supplements are reinstated, as would seem to be required by the ruling.

We go through our files and attempt to locate those people, but we are sure there are thousands of them. The board should do a little to see if it can find them. Its policy was wrong, as the corporate board has decided.

The administration of pension supplements is still a nightmare. In many cases, supplements are awarded for short periods of time subject to review. It is a common experience for workers to have their supplements cut off pending that review and then to have them restored only when it becomes apparent they are still entitled to them and they should not have been cut off.

Such interruptions in benefits are traumatic for injured workers in tight financial constraints. An injured worker suddenly having his cheque stopped, having to spend anywhere from two to six weeks figuring out what happened and then being assured that he will get it all back, does not

help him convince the grocer or landlord that he will be getting a cheque. To ask them to wait, saying he will pay next month, does not work.

The board should cut off payments only after a review has disclosed the supplement should not be continued and when there has been a reasonable notice of a cut to an injured worker. Injured workers have a right to plan their affairs just like everybody else and should not be subject to interruptions.

On this line, there is the issue of what seemed to be arbitrary decisions as to when to cut off the so-called temporary pension supplements. Especially in the last year we have seen an effort to cut people off at the earliest possible opportunity, simply on the rationale that pension supplements are temporary. We get letters from the board saying: "It has been two years. You must have adapted to your disability by now. We will cut you off." That is patent nonsense.

The longer you spend with a disability without going back into the work force, the harder it is going to be to get a job and the less likely you are to have adapted to your disability. The board continues using arbitrary criteria to say, "The temporary supplement time is over." There should be more adherence to policy guidelines, and a much longer scheme of pension supplements in place.

Since Bill 101 came into force last April we are still unable to discern a coherent board policy regarding older worker supplements. The older worker supplement, as I am sure everybody here knows, is designed to allow older workers, who because of their age and a compensable disability are competitively unemployable, to receive supplements equal to what they would receive on old age pension until they turn 65.

One unacceptable trend we have observed is for the board to encourage older workers who wish to return to work and who are looking for work to stop looking, admit the game is up—they are competitively unemployable—and take the older worker supplement. We have had many calls from workers saying, "My counsellor has told me I should stop this nonsense and start receiving the older worker supplement." It is a quarter of their usual wages.

We have seen cases where the Workers' Compensation Board has unilaterally deemed an older worker to be unemployable, placed him on an older worker's supplement despite the fact the worker is still out looking for work, still co-operating with rehabilitation and still wants to get back into the work force. The board is using the older workers' supplement not as a benefit

but as a cost-cutting measure. I am sure the committee agrees that is not what the Legislature intended when it conferred that benefit on injured workers in this province.

Another problem with pensions is pension commutations. Section 48 of the Compensation Act gives the compensation board authority to commute a permanent pension into a lump sum where it is in the injured worker's interest to do so. That is a bit of a simplification. The compensation board has criteria by which it determines whether to commute the pension.

Because permanent pensions die with the injured worker, except in the case of a 100 per cent disability pension, many injured workers wish to commute their permanent pensions to help ensure financial stability for their spouses and families in the event of their own deaths.

2:50 p.m.

However, commutations are generally made only where the Workers' Compensation Board perceives a rehabilitative purpose. The net effect of this policy of the board is that where a commutation is granted, the board is effectively shifting the cost of rehabilitation away from employers and on to injured workers who then use their permanent pension to finance their own rehabilitation.

It seems to us that such a situation is entirely inappropriate. Rehabilitation of an injured worker is a legitimate cost of compensation and we have an ostensibly employer-financed compensation system. Commutation should be granted not for rehabilitative purposes only, but also to help injured workers use their pensions to ensure financial stability. Many of them want to pay off their mortgage; many of them want to leave their pensions to their children or spouses. It seems to us the board's criteria are inappropriate.

Mr. Martel: If an injured worker paid off his house the finance company would not make a penny. You can calculate \$300,000. In some instances you are better off to pay it all to the bank. I will pass on that.

Mr. Chairman: Apology accepted.

Mr. Blair: There is another problem with pension commutations. That is the discount rate the board applies. Currently, when the board commutes a pension, the pension is discounted at a seven per cent rate. That is substantially higher than the two and a half per cent rate used to discount large awards by civil courts.

This is because in calculating the future value of a pension for commutation the board has not been taking into account the inflationary increas-

es which are bound to accrue in the future. The result of this is that the commutation payments are often only a fraction of the capitalized value of the pension.

What is particularly galling about this is that the board's policies for 1985 assessments, promulgated last July I believe, assess employers at a substantially lower discount rate precisely in order to cover the full projected cost of future inflation adjustments. What that means is that there is money coming in but it is not going out; it is as simple as that.

Injured workers are getting the short end of this transaction when the board commutes their pensions. Clearly, the board should recognize the reality of inflation-indexed benefits on both sides of that transaction and begin to discount the commuted pensions when it pays them to the workers at a rate that reflects what employers are assessed and at a rate that accounts for inflationary adjustments in the future. What they are doing is unrealistic and not really acceptable.

I would like to turn now to the appeals process, and we are going to be harping on some of the things this committee has heard again and again. I can only say that is because they are the most serious problems and they seem to refuse to go away.

In the problems facing injured workers and their representatives in dealing with the WBC, one of the most debilitating remains the lengthy delays associated with the appeals process. During the past year, the delays have increased to intolerable levels.

Mr. Gordon asked a rhetorical question the other morning. He said, "I wonder what the delays would be like if it was not a member of Parliament with lots of political clout bringing this pressure to bear." I can assure Mr. Gordon that it is not any better; it is a whole lot worse. We see as much as four months to receive a photocopy of the claim file, six months from the time of requesting an adjudicator hearing to the date the hearing is held, and numerous delays in the post-hearing process.

In cases where the referral of the file takes place for a medical opinion in the post-hearing phase, there is a whole new set of delays. In our clinic we have seen those delays stretch on for as long as a year from the time the hearing is held to the time the decision is rendered. There was one case where it took a year to get the decision; the decision came back and the board decided an issue that was not raised at the appeal. There is a problem here. This month we are celebrating the

one-year anniversary of another appeal that was done last October. It is appalling.

In other cases a successful appeal necessitates procedures, pension assessments or collection of more information before the decision can be implemented. That means further delays between the rendering of the decision and the release of the appropriate award.

One thing I would like to stress to the committee is that it is not as though an injured worker has one appeal in his or her whole life. It is not as if only one thing goes wrong in the compensation claim. That is why I say this process can literally add years.

First of all, the board may deny entitlement. You may have to appeal to win entitlement. Then you may have to appeal because of earnings basis problems; the board says you were earning less money than you really were. Then you may have to appeal because the board says you should go back to work while you feel you are still totally disabled. Then you may have to appeal because the board thinks you are not looking for suitable work. Then you may have to appeal to get a pension assessment. Then you may have to appeal to get that pension raised to an appropriate level. Then you may have to do numerous appeals to maintain your pension supplement.

You can see there can be appalling problems when you have up to a year of delays for an appeal. Thinking of it in terms of one appeal per injured worker is to ignore the reality.

The establishment of the external appeals tribunal and the concomitant procedural changes within the compensation board may address that issue of delay. We heard the compensation board say last week it is anticipating much faster turnaround on its part on these things. I can only hope it is true. We have heard some assurances from them in the past that the delay problems are going to be cleared up, but until the problem is solved it is going to stand in the way of fair treatment of injured workers because they are just waiting and waiting, and they are not getting it when they should be. It is fairly straightforward.

Also of concern in the appeals process is this problem I raised earlier in discussing board doctors. The procedure of referring by an appeals adjudicator or formerly the appeal board—I am going to have to get the new terminology—hearings officers to a board doctor following an appeal hearing usually takes place where there is a difficult medical issue and the appeals adjudicator wants to fly the whole thing past the board doctor to see whether or not the claim should be

awarded. In many cases, that board doctor is one who has been substantially involved with the claim at an earlier stage, and in many cases it is a board doctor who has made a negative recommendation or decision.

In situation such as this, I think there is a justifiable concern that the board doctor may be biased as a result of prior involvement or may feel that he or she is familiar enough with the claim that only a cursory review of the problem is necessary before making a recommendation.

I recall a situation that took place recently, a post-appeal one of our case workers handled. The issue referred to the medical branch for an opinion was a back disability. A memo came back from the medical branch saying: "I denied entitlement in this claim before. Please see memo XYZ." Memo XYZ was a medical memo about an elbow disability, and as a layperson even I know that the elbow bone is not connected to the backbone. It seems quite clear that in that case the board doctor simply did not take the time to review the issue. Whether the doctor felt familiar enough with the case to make the determination without reading the memo the appeals adjudicator sent or whether the doctor really did not care is hard for me to say, but the result is none the less unacceptable.

It is clear that referral by appeals level personnel to doctors who have made previous decisions relating to an issue on appeal has to be looked at, because this procedure is inappropriate.

Another problem with appeals is that the board still does not provide notice to employees when a given employer is appealing issues such as penalty assessments or assessment rates.

3 p.m.

Workers have an interest in these issues. It benefits them in the long run to have input into the process of determining how an employer should be penalized for failing to live up to the obligations of an employer. There are health and safety concerns, and it is very important that workers should have the opportunity to address the board when those issues are the subject of an appeal. Currently they are not notified.

In the interests of building and maintaining a safe working environment, the Workers' Compensation Board should undertake to notify all employees of employers who are making assessment or penalty appeals to ensure the participation of the workers who will benefit or suffer as a result of the decisions in those matters.

I realize this committee is primarily here to look at the performance of the board in the past,

but I think it is appropriate to say a few words about the appeals tribunal since the committee has seen appropriate to have Mr. Ellis explain a little bit about the tribunal to us.

We feel the establishment of an independent tribunal is an important step in ensuring just and fair determination of compensation claims. However, the two factors that concern us are the complexity of the procedure and the anticipated six-month turnaround time for the appeals tribunal.

It is readily apparent—and Mr. Ellis admitted as much—that the need for representation at appeals hearings will increase as a result of these complex procedures. For the community of injured workers' representatives who already perceive that the demand for their services is far greater than they can currently meet, it is a tremendous problem. It is anachronistic but true that we think of the situation as the tip of the iceberg. We know that for every worker we are able to represent, there are many out there who do not know they need help or are unable to get to us for help, or come to us and we do not have the resources to do what needs to be done. We cannot handle everybody.

It is by no means clear that the excess demand that is going to be generated is going to be taken up by the worker adviser's office. We have a waiting list right now that could swamp the worker adviser's office in no time. The implications of this whole mess are that injured workers will need more representation more acutely than they have in the past. It is a very difficult question to answer as to whether they are going to be able to get it. If they cannot, they are going to suffer. This committee has to think very seriously about that.

The second problem is the six-month turnaround proposed by the tribunal. It is far too long. The tribunal must remember that injured workers, while appealing their claims, are without sufficient resources to meet their financial obligations throughout the appeal process. The only way to avoid the human cost of these situations—often including depression, families breaking up and injured workers committing suicide—is to make sure the swiftest possible resolution of claims takes place.

It is very troublesome, after the kind of delays workers can experience at the compensation board level, to then be told there is going to be an optimum six-month waiting period before they get a decision from the appeals tribunal. We are very concerned about it.

I would like to turn now to a few points on the finances of the compensation board. The practice of continually underassessing employers in recent years, in combination with a rise in persistency rates, is responsible for the creation of an unfunded liability which, when we include the future costs of current accidents, is somewhere around \$5 billion.

It is encouraging to note that the board's assessment policies have been adjusted to meet the need to reduce the unfunded liability. It is also encouraging to note Dr. Elgie's assurance that the debt will be reduced without impacting negatively on the benefits paid to injured workers. We hope this is true. However, there are still further steps that could be taken by a compensation board administration that was committed to the integrity and fairness of an employer-financed compensation plan.

It has to be recognized that an expanding economy will help to reduce the persistency rate—the persistency rate being the length of time between the accident and the time a person gets back to work. Equally important is a more extensive and effective rehabilitation program. That has to be the cornerstone of getting injured workers off the benefit rolls. It has to be an effective program that gets them into meaningful, productive employment.

To aid in financing and implementing such a program, the board could readjust assessment rates among employers to provide reductions in assessments to employers exceeding the average in re-employment of injured workers. Conversely, those employers who feel unable to employ injured workers should contribute more to the cost of compensation through higher assessments. This is within the scope of the current legislation and will provide an important incentive structure to help the board in its rehabilitative efforts.

Turning to penalties and other differential assessments, the board is still reluctant to invoke sanctions under subsection 91(7) of the act, which allows the board to increase assessment rates for employers whose accident rate is abnormally high, the demerit system we heard the Union of Injured Workers speak about earlier today; and particularly subsection 91(4) under which the board can penalize employers whose work places are in unsafe condition.

These could act as powerful reinforcements to health and safety legislation and create strong incentives to keep work places accident free and ensure that those employers who contribute to the cost of compensation also contribute more

heavily to its maintenance. It is imperative that the board be both relentless and creative in ensuring that employers who increase the cost of the system do not get a free ride on those who are more conscientious.

I have attempted to isolate a few of the problems that we continue to experience in our dealings with the WCB: vocational rehab, board doctors, pensions, supplements, the issue of delays in the appeal process and the employer assessments. Last year saw no substantial improvement over 1983 in any of these areas. The first eight months of 1985 were equally disappointing.

I urge this committee to look long and hard at these problems and make a serious effort to resolve them. The board has indicated to the committee it has made significant revisions in these areas, which they say will answer many of the complaints and allegations. I urge the board to live up to its word, and I urge this committee to make sure the WCB does just that.

In addition, many issues have been addressed by injured workers that are legislative in nature. The issue of mandatory re-employment is one which has been raised and the Minister of Labour (Mr. Wrye) has indicated a willingness to act in this regard.

Also, steps must be taken to ensure fair treatment of workers injured prior to April 1. Equality of treatment is essential. The only equality enjoyed by injured workers today is the universal helplessness and frustration in dealing with the compensation board. We feel that a concerted effort must be undertaken and changes must be made. This committee should not have to sit here next year and listen to the same complaints which, in the past, the board has failed to act upon.

I also urge the committee to make sure the board represents the cutting edge, the vanguard, in industrial disease and so-called white-collar problems, VDTs, etc. These are issues on which the board has a moral responsibility to be at the forefront. I urge the committee to make sure it is.

Those are my formal submissions, and I will be happy to answer any questions the committee may have.

Mr. Chairman: Thank you for a very thoughtful brief. There are a number of things the committee will find of particular interest. One is the potential abuse of the older workers' supplement. You are right, that was not the intention of this committee. I sat on it and we debated it.

As to your concerns about the more difficult appeal process that may be ahead for workers and

their advocates with the appeals tribunal, the committee will be taking a look at that in the next few days.

Finally, an observation you had about rehab-related assessment was a very interesting suggestion; perhaps there is a way in which employers can be either penalized or rewarded, depending on their performance.

Thank you. That is a very interesting brief.

3:10 p.m.

Mr. Callahan: I agree. That final item was an innovative idea. I hope the committee and the chairman will take cognizance of that in the Legislature when discussing any amendments, because it is an excellent idea.

The other thing that intrigues me is, in years past when you were dealing with an insurer in the private sector who was funding the defence of a claim for benefits in, say, a motor vehicle accident or any kind of negligence action, there was no real carrot to get them to settle quickly. They could stall you forever. The longer they stalled you, the more funds were available to them to invest, and they probably made as much money as the final claim settlement.

The introduction through the Judicature Act about three or four years ago had a very significant impact on encouraging insurance companies to stop playing this game of hide-and-go-seek in getting matters settled promptly and effectively. If they did not do it, when the matter was finally settled there was an interest factor incorporated into the judgement at the prevailing bank rate, normally that at the time of the accident, although it varied.

As a practitioner, I can tell you that had a very dramatic impact on the settlement of actions, getting the matters dealt with very quickly and effectively by the court. It had a very salient effect on speeding up the process. I do not know who would be bearing the prejudgement interest, whether the board or the employers, but certainly an employer who has a very bad track record in terms of safety for his employees would probably be a prime target for that type of penalization.

I just throw that out, because it seems to me that issue lingered on for years in the matter of negligence settlements and was finally resolved very satisfactorily. Some people might disagree, but I think the addition of the prejudgement interest has had an impact on every insurance premium payer in the province because they have had to bear the burden.

If the nature and the concept behind the workers' compensation legislation is to provide compensation without regard to fault, I suggest

there has to be a carrot built in to make sure that people who are truly injured during their employment are dealt with quickly and effectively. It is certainly a truism that justice delayed is justice denied. We saw that in one case that came before the Ombudsman's committee. The fellow was dead by the time the case finally came before us. That hardly assisted him in his changed state. I simply advance that as a thought to look at too.

Mr. Polsinelli: As an aside, or perhaps a supplementary to that, I think that is one area we may be able to look at in terms of the board cutting off any type of benefit and benefits being subsequently restored through the appeal process. There may be an incentive on the part of the board or its claims department to be a bit more careful, knowing they would have to pay interest on any benefits that had not been paid or had been withheld.

Mr. Chairman: An interesting comment from the Ministry of Labour. Are there any other questioners?

Mr. Polsinelli: The new minister is receptive to all new ideas and is prepared to look at all of them.

Mr. Martel: I saw that today in his decision not to prosecute. I saw his willingness to get tough when he indicated why he was not prosecuting. It sounded like the same old tune I have heard for five or six years.

Mr. Callahan: I am sure you all heard him.

Mr. Martel: I was hoping he would be here.

Mr. Callahan: I think he gave his reasons.

Mr. Martel: Yes, but some of us do not believe him.

Mr. Callahan: You could check with the legal department. They gave him the advice.

Mr. Martel: We have been around this one many times. The company has been given 29 orders.

Mr. Chairman: Let us return to Mr. Blair's report.

Mr. Martel: Let me go back to the presentation.

Mr. Chairman: Please do.

Mr. Martel: You have joined the ranks of the irresponsible. I hope you realize that. I could not help but write down some of your irresponsible statements as you were going along.

One in particular, a whole paragraph on page 1, says: "The board continues to view its role in rehabilitation as one of getting injured workers off the benefit rolls and into the first job available"—my God, I said something like that

last week and Art Darnbrough nearly died of shock—"regardless of wage or status, with little or no emphasis on helping injured workers to develop skills."

If one wanted to dig out Hansard for last year, the year before and the year before that, one would read exactly those statements and the same answers we got last week after we made our presentations from the board of representatives. Everybody is out of step except the board.

If one wanted to look at pensions, for example, or commutations. That has been argued many times. I have never understood a commutation, although I have helped workers to get them to establish a small business. Should he establish a small business using his commutation or should we be sincerely interested in rehabilitating him?

Better still, I have seen the calculations on a commutation where a worker, who might have \$60,000 of benefit entitlement and want to pay off his home, would have had a substantial amount of money left over and the security of owning his own home. I am sure you have seen it many times and all we are doing is paying money to the bank. Virtually the whole cheque can go to the bloody bank. You can take that to the board and ask for a commutation because he could pay off the house with \$20,000 or \$30,000 and live on welfare. Welfare is probably subsidizing him to some degree anyway, but no way.

Everything you have written here has been concurred in by most of us. Fighting board doctors—we all know. If it is an industrial disease, we know who makes the assessment. He is not a specialist, or at least one of them is not, but he makes these great, important decisions.

I was talking to the steelworkers in Elliot Lake this morning. They phoned me. They have 100 or more cancer cases they are trying to get looked at. Because they are not from underground, they are not considered as cancer cases. There is something magical about working underground. If you are sitting on the cakes of uranium on the surface, it makes a hell of a big difference. I do not know what it is, but it does.

The doctors are making the adjudication and then sitting on it, making an initial decision without seeing the worker. Since Moby Dick was a minnow we have heard those comparisons; nothing changes. The board doctors look at a file, never see the man and cut him off. Last week they said, "No, it does not happen." Does it happen, in your opinion?

Mr. Blair: It would be very satisfying to be able to come before this committee and offer a stack of innovative solutions to new problems.

The problems are not new; they have been the same problems the board has thrown at us year after year after year. Maybe it would be fun if they thought up some new ones but I would like to get rid of the old ones first. Many of the solutions I have put forward today have been discussed for several years. Some of them have been proposed to this committee before.

3:20 p.m.

Mr. Callahan: For 42 years.

Mr. Blair: That is about right. The board does not seem to act on them. The problems I isolated—

Mr. Martel: First you have to accept that there is a problem. That is the difficulty. The board will not accept that there are problem areas in dealing with doctors and so on.

Mr. Blair: They come here again and again and the public will say 94 or 95 or 96 per cent go through. There is very little problem, but we do not see those people. We see the thousands who seem to represent the four or five or six per cent outstanding. Year after year the same problems create that four or five or six per cent. Year after year solutions are proposed that a lot of people more learned than myself think will solve the problem, but nothing gets done and it is very tiring and very distressing. It is a drain on resources. Worse, it is a travesty to the injured worker.

Mr. Callahan: I understand where my learned colleague is coming from. Mr. Martel is stating what is pretty obvious even to a new boy on the block from the brief sessions I have attended, or from the Ombudsman or even the WCB claims that occupy probably 90 per cent of my constituency.

The point has to be made that we can talk about ancient history forever, and it is ancient history. I have confidence in the new chairman. If we are going to continue to sound off about what happened in the past, Dr. Elgie should go home and forget he was ever appointed chairman of the WCB. I have enough confidence—

Interjections.

Mr. Callahan: Equal time, please. I have enough confidence in Dr. Elgie and I have enough confidence in the present minister—

Mr. Polsinelli: And his parliamentary assistant.

Mr. Callahan: No, I do not have confidence in you at all. Sorry about that.

I have enough confidence to trust the scheme. Without exception, without party affiliation, we

all understand that ancient history is gone. There will be changes. To sit here and bicker and carp constantly about what went on in the past is counterproductive. It is a waste of my time and it is a waste of this legislative committee's time. It would probably be more productive to adjourn this meeting for half a year, or a month, and let Dr. Elgie and the minister come back and show us.

Surely the chairman and any members who have been reading the reports of this committee do not have to be mental giants to recognize there have to be changes. What you are trying to say is that because there have not been changes in the past, there are not going to be changes in the future. I suggest that is totally wrong—

Mr. Martel: Based on what?

Mr. Callahan: Based on the fact that has not been reflected in what the minister had done thus far. He has been charged by the appointment of the people as chairman; also in terms of the statements that have been made in the House and in terms of the amendments made to the WCB.

Mr. Martel: You have to remember that the very same Minister of Labour, when he was a critic, said he would bring in indexing, but when we moved the amendment in July, he refused to accept it. I am from Missouri. When it is in the bag, I will accept it. Until then do not ask me to take someone's word.

Mr. Callahan: That is fine, but it always seems to me it is very easy to be negative. To be negative, you do not have to be very innovative.

Mr. Martel: No, I do not.

Mr. Callahan: Perhaps you should take a leap of faith and say there are things happening that we should encourage and advance.

Mr. Chairman: I must remind both members that you are forgetting the very important accord that was signed which indicated that there was going to be reform of the workers' compensation system.

Mr. Gordon: I am not trying to get into a discussion about the accord. I would rather talk about the community legal clinic you represent. I could take each one of the points you have made and find a lot of reasons to concur with what you have said. I would be the first to say I think there will be improvements over the years; there always are. But there seems to be a persistent theme of problems that keeps surfacing in the WCB.

One is that it seems to be a granite monolith that consistently resists change. You touched on that when you talked about delay. We could talk

about delay until the cows come home. I just finished signing a letter here to the new chairman of the WCB, which I think should be read for the benefit of the new government member sitting on my right. I say—

Mr. Callahan: Moi?

Mr. Gordon: I am going to read a portion of this letter because it speaks well for the gentleman here before us today.

Mr. Chairman: You can treat this as an exhibit if you like.

Mr. Callahan: Do you want to file me as an exhibit or what?

Mr. Rowe: Too large.

Mr. Gordon: After pointing out to the chairman in this letter that further decentralization of WCB functions to both the Sudbury and London offices is necessary, I point out:

"If anything were to point to the necessity, the dismaying delay my constituent Hector Blake has encountered in recent months clearly points to this. On June 3, Mr. Blake met with pension people in Toronto for assessment for a permanent partial pension. He was granted 25 per cent. Naturally, his regular benefits ceased. Since then, his file was literally tossed back and forth between Sudbury and Toronto, the Sudbury adjudicator claiming all information was on file to set the pension rate, the Toronto people claiming such was not the case. Meanwhile, Mr. Blake was without any funds."

Enough said. I think the point is well made. Mr. Martel has brought it up time and time again, and I am sure I will in the future. Unless some kind of an ombudsman is established in the WCB to cut through the red tape in Sudbury, London and Toronto, injured workers are going to continue to suffer from interminable delays and lack of money for no reason at all. That is wrong. I do not think we should have to hear it year after year, but we do.

Furthermore, the board has a real credibility problem, despite the fact that Bill 101 has been passed. You are still going to have a very difficult time convincing injured workers that workers' advisers are there to help them and not to help the WCB brush them off or get rid of them as quickly as possible.

Unless there are some very significant changes made in rehabilitation, you are going to be here next year and we are going to be here, talking about the same problems of workers not being adequately rehabilitated.

I agree with you, sir. Your brief was excellent.

Mr. Ramsay: The shields are up. That is good. Some of the committee people need shields in place.

I hesitate to say something after the intimidating comments of my colleague Mr. Callahan. I will try not to be negative. His point is well taken in a way, but this brief is positive. You have made many suggestions in it. You have pointed out some problems but you have also come in with some suggestions to the committee. We have the opportunity this year to compile a report after our hearings, and there are some valuable points in this brief from Mr. Blair's legal committee that we could act upon.

The one I was especially impressed with was the independent commission of inquiry on rehabilitation. I have learned in the last week and day I have been in this committee that there are two basic problems: safety in the work place and, after the injury, rehabilitation. Workers do not necessarily want money in the form of pensions or supplements. It would be nice to get rid of that entirely if we could get people back to work and rehabilitated so they could have the same dignity and self-respect enjoyed by those of us who are blessed with good health.

3:30 p.m.

That might be a way of going about it, because there seem to be a lot of obstacles preventing workers from getting rehabilitation. I am not sure what the answers are. That commission might be a way of finding out these problems, and we can find out where we can go from there.

Mr. Blair: A commission of inquiry was established in Manitoba, as some of you may know, called the Section 100 Committee. That committee investigated rehabilitation problems and made 19 substantive recommendations to the Manitoba government. Many of those have been implemented. The Manitoba government is hopeful that many cost benefits will be realized very quickly in spite of the fact it is spending much more money in real dollars.

The success of the Manitoba experience in establishing an independent commission of inquiry lends more support to the idea that this committee should look very seriously at the idea. We would certainly endorse anything this committee would recommend in that regard.

Mr. Chairman: Do you have a copy of the Manitoba recommendations?

Mr. Blair: I have a copy of a paper presented by the chairperson of the Manitoba compensation board. This contains what is called a condensed edition of Section 100 Committee recommenda-

tions. This is the only copy I have available, although I could make this available for distribution to this committee. It might be very helpful.

Mr. Chairman: The committee would appreciate it if we could have a copy of it. Mr. Martel, you are next, I believe.

Mr. Martel: The southern Ontario Leo Bernier of the Legislature. We can be spreaders of gloom and doom. Leo Bernier always used to tell us that.

Mr. Callahan: Who is he?

Mr. Martel: He is a former minister of a bunch of things.

Mr. Ramsay: But Mr. Callahan does not have a kingdom as Leo used to have.

Mr. Martel: He is going to try, obviously. He seems to be moving Mr. Polsinelli out because Mr. Polsinelli only has six months to clear this up or he is going to lose that new job.

With some fear of being considered negative, can you tell me when you have won a case on benefit of doubt with respect to an industrial disease?

Mr. Blair: There are two components to that question. First, there is the policy of the benefit of the doubt. It has been our experience that since the benefit-of-the-doubt policy is supposed to apply when there is evenly weighted medical evidence, it never works, because if there is a board doctor who has made a recommendation, it seems that, a priori, the board will consider that medical evidence not to be equally weighted. We hardly ever get past that point.

Turning more seriously to the industrial disease issue, I cannot say categorically that our representatives have never won a case of that nature, but a victory in that regard has never been brought to my attention.

Mr. Martel: I worry about it. It is why I think today the Workers' Compensation Board is ultimately doomed. I do not believe we are ever going to be in a position to indicate specifically what has prompted someone in a work place to get silicosis.

If there is an epidemic of people dying in large numbers, then it might eventually become established that something in that work place has caused a worker to have the disease or die from it. One might look underground at Elliot Lake or the sintering plant at Sudbury. The overwhelming majority of them are ignored. One cannot prove they occurred in the work place even though some of the compounds a person works with are carcinogenic. If there are not 100 deaths, it is not

going to be accepted as having come from that work environment.

That is what is going to kill the Workers' Compensation Board, because it is eventually going to have to move to a policy of universal sickness and accident insurance. As I tried to say last week, there are only a few things that one needs while incapacitated—income, physical rehabilitation and, ultimately, work rehabilitation.

The insurance companies do none of these. They do no work rehabilitation, as I understand it. The only rehabilitation really being done in the province is by the Workers' Compensation Board. There might be a little in the Ministry of Community and Social Services.

This will be the death-knell of the board. It will be the policy that one cannot prove and identify what causes people to have industrial diseases. That is why we are going to have to move to universal social sickness and accident insurance. None of us is going to be able to get the medical support necessary.

In the United States now, as you know, four or five major corporations are pooling their money to fight large cases and prevent acceptance of those compounds that cause the industrial diseases the workers are catching.

I believe I am predicting the demise of the Workers' Compensation Board 15 years ahead of time, but it is going to happen. It will still have a role, but it will be in a much larger scheme of things.

Mr. Blair: As I indicated earlier, in bringing industrial disease claims to the Workers' Compensation Board and meeting with what seem to be pretty old-school attitudes regarding causation on occasion, it is apparent that the Workers' Compensation Board, despite its being strategically located to do all the front-runner research on industrial diseases, does not seem to be doing it.

We see a lot of privately financed or union-financed research being done, but nothing like what needs to be done to ensure that workers are adequately protected from and compensated for industrial disease. As long as the Workers' Compensation Board views its role as defending industrial disease claims, we are going to lose a great many cases.

Mr. Martel: Is it taking one to court now? I think it got leave from the Minister of Labour to appeal two aneurysms that occurred to two workers. I believe one is a woman and the other a man. It gives me some concern. The Minister of Labour has now given the right to appeal those two decisions.

Mr. Blair: That is correct. Those are involving the section 3 presumption in favour of the worker.

Mr. Callahan: I have a supplementary on that. I find that very interesting. I would not want to put Dr. Elgie out of a job before he starts—oh, he has started. Has there ever been a costing done on what that type of insurance would cost vis-à-vis the cost of running this whole operation and all that is involved in it? If there is, could it be made available to me through the clerk?

Mr. Martel: There is an excellent little book in the library by Professor Terence Ison of York University. He went to New Zealand to spend about six months studying the New Zealand system. Let us not say it does not have problems. However, Ison did some costing. I think Australia is going to move to it.

Mr. Callahan: I was more interested in whether one had been done here in terms of an experience by the insurance industry vis-à-vis the cost of this entire conglomerate in looking after it through this process. Having said that, if it is available, I would like to see it, if anybody has it.

I will give you an example under an insurance scheme. I remember a case where a fellow's estate was trying to claim under an accident policy. The narrow issue it turned on was this set of facts. He was pushing his car out of a snowbank and had a heart attack. The question was whether it was an accident or whether, because he knew he had a bad heart, it was something he should have known about and therefore was not an accident.

3:40 p.m.

You do not avoid the nitty-gritty of semantics by moving from one process to the other. The insurance companies will fight them equally vehemently. If they can get a leg in the door to stop you from collecting, which is their job to their shareholders, they will do it. Therefore, I do not think there is a panacea.

Mr. Martel: But that is not the reason for it. The reason to move towards it is that there are three things which are required. Are you any less disabled if you suffer a heart attack pushing your car than you are if you fall down the stairs at work and break your neck?

The issue is, regardless of where the accident happens, you still need the same income while you are recuperating. You may need rehabilitation and retraining for a job. Most of the studies I have seen from the United States, for example, on the litigation which goes on in the private sector, insurance companies and all, show that

the claimants end up with far less than if there was a universal scheme that covered everything. They spend most of their money in litigation.

The Vice-Chairman: This will be the program we will discuss next year after Dr. Elgie has gone and the board has been dismantled. I will welcome the topic at that time. Mr. Blair, did you want to respond?

Mr. Blair: I just wanted to address Mr. Callahan's point. I am not an expert on the presumptive clauses of the Workers' Compensation Act, but that is what section 33 of the Workers' Compensation Act is supposed to do in saying that where an accident arises out of employment, unless the contrary is shown, it shall be presumed that it occurred in the course of employment, and where it occurs in the course of employment, unless the contrary is shown, it will be presumed it arose out of employment. That is what is supposed to cover that.

In the cases Mr. Martel referred to, where the aneurysms occurred, the argument is that it happened while the person was working. There you go, game over. The presumption should catch it. That is what those are for. I do not know if that sheds any light on your insurance examples at all.

Mr. Martel: I am really worried about the new appeal system and not about Mr. Ellis's integrity and what he is attempting to do. I am glad you raised it. I am worried about cross-examination. You heard some of those people this morning, about the difficulty they had in conversation. Many of those cases go back two, three, four, five, six or seven years.

I am fearful that if a cross-examination starts, somebody is going to be held accountable for what he or she says about something that occurred six years ago and the decision is going to be reached on what he or she says today.

Mr. Polsinelli: You must have lost a lot to Perry Mason.

Mr. Martel: No. I have been at a number of hearings which, to the credit of the panel of people hearing the cases, have been stopped. By the way, you have not heard me criticize that panel. Wait till you go to some of those cases and the company decides it is going to bring in the worker's lifestyle at night or what he was said to have done.

I have been fortunate to attend a number of those hearings where the chairman of the panel has said: "Wait a minute. Do not bring in what you think you heard down the road." If you think these questions will not be asked, my friend, you

are wrong; you are dead wrong. The companies are going to try to use them to confuse a worker, unless the people chairing the hearings intervene. If you think it does not happen, you are mistaken, and I am not talking about Perry Mason. I have seen companies go after individuals like you. Why do you think so few people want to go before the board without a representative? They know the rumours.

I give credit to the panels before which I have appeared; they have put a stop to those kinds of questions very quickly. But I still worry about the whole concept of cross-examining somebody about something that happened six or seven years ago when some of that may be part of what leads to an ultimate decision.

Mr. Polsinelli: Consider a board doctor who is at a hearing giving evidence. As a representative of the worker, would you not want to ask questions of the board doctor?

Mr. Martel: Quite frankly, I have never questioned a board doctor and I have never even wanted the board doctor there. I try to go directly to appeal. I am prepared to bypass most of the appeal levels and go directly to the panel of three. Those of us who have been in the field for a long time have found that is the best possible hearing you can get for the people you are representing. Do not ask me to go to the claims review, because too many of them are turned down. Do not ask me to go to the primary level of adjudication, although it is better than the claims review.

On occasion, I have said, "Let us forget the adjudicator level and let us get to the whole panel."

Mr. Polsinelli: I am merely suggesting that if the board is presenting the case in front of the appeals tribunal and there are a number of doctors or a doctor giving evidence as a representative of the injured worker, I would want the opportunity to ask the board doctor questions, and that is cross-examination.

Mr. Martel: They could also get to the worker, though, could they not?

Mr. Polsinelli: Yes, they could, I guess. The whole purpose is to get at the truth.

Mr. Martel: It worries me and I think it worries Mr. Blair.

Mr. Blair: That is correct. What we are looking at in a system of the complexity that Mr. Ellis outlined is higher numbers of employers being represented, a higher level of legal representation and a general legalization of the process that could detract from what in the past has not always been an entirely satisfactory but a

relatively informal and informative appeal process.

There is a great deal of academic literature, which I am not as familiar with as I probably should be, on the merits and demerits of an adversarial system in a nonadversarial context, a context of regulatory or compensation agencies. This committee should look very carefully at any suggestions or proposals that are going to lead to an enhanced legalization and a more adversarial nature of hearing. Those are the concerns we are seeing.

Injured workers are not the people who should be subjected to intense examination by a high-priced Bay Street lawyer to determine whether or not they had an accident or are feeling as sick as they say they are. There is a lot of subjectivity and a lot of expertise that should be granted to the board and to the tribunal. The tribunal should be running the hearings. I think these are general concerns about intensified legalization that cannot be dismissed.

Mr. Polsinelli: I do not disagree with what you are saying. If I recall correctly, when Mr. Ellis gave his presentation to this committee, he indicated quite clearly that in his opinion the process would not become legalistic, as he defined it. I am sure those concerns are also on his mind.

We will want to avoid any type of intensive Bay Street type of cross-examination of the injured worker. That is where, I guess, the people who are hearing the case will come into play and try to prevent that kind of stuff. These concerns have been addressed by Mr. Ellis, when he was a witness before this committee. I suggest that what we should do is basically give him a chance to operate and see how it works out.

Essentially, we are trying to fish into the future as to what could or could not happen. I have extreme confidence in Mr. Ellis. Given his comments to this committee, I am sure he will be more than cognizant and more than restrictive in the type of procedures that are used that would turn the process into a strictly adversarial process or a completely legalistic process. So let us give it a chance.

Mr. Martel: I am not suggesting we not give it a chance, but I think it is fair to indicate concerns, to red-flag them, so that if they should arise—

Mr. Polsinelli: I am a great fan of putting little red flags all over the place, Mr. Martel.

Mr. Barlow: Around your neck.

Interjection: Is that a political statement?

Mr. Polsinelli: Nonpartisan.

Mr. Martel: It is a political statement reflecting his—

Mr. Chairman: The vice-chairman of the committee has a question.

Mr. Ramsay: In reference to his section on board doctors, I would like to ask Mr. Blair how common a practice it is for the board to solicit an opinion for an appeal from the same board doctor who gave a negative opinion earlier in the process.

3:50 p.m.

Mr. Blair: Obviously, it does not happen in every case. I guess it happens most often in cases where an opinion has been given by a senior medical adviser at an earlier stage in the claim. There is a limited number of those advisers to go around. When the medical issue to be determined is a serious one, it makes some kind of logical sense for the appeals adjudicator or appeal board to say, "We should send this to a senior medical adviser." It is a matter of playing the odds. It happens in a significant percentage of cases, not every case, but it is significant enough that we see it happen again and again and it is of concern to us.

Mr. Ramsay: By going to the next step of appeal, we are not really getting any new medical evidence from the board side.

Mr. Blair: Not significant evidence from the board side, no.

Mr. Chairman: Any other questions by members of committee? If not, Mr. Blair, thank you very much. You have put in a very interesting brief, as I said before; a very thoughtful one. It will be helpful to the committee.

Mr. Blair: Thank you very much.

Mr. Chairman: Tomorrow the committee will convene at 10 a.m. to hear from the Employers' Council on Workers' Compensation. I urge you not to miss that one. The Asbestos Victims of Ontario and the Canadian Manufacturers' Association will also be here tomorrow morning, so it is going to be a very busy morning.

The committee adjourned at 3:51 p.m.

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Rowe, W. E. (Simcoe Centre PC)

Blair, R., Co-ordinator, Union of Injured Workers Clinic, Central Toronto Community Legal Clinic



Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development

Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament

Tuesday, October 8, 1985

Morning Sitting

Speaker: Honourable H. A. Edighoffer

Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, October 8, 1985

The committee met at 10:09 a.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984 (continued)

Mr. Chairman: We now have representatives from all three caucuses here. We have with us this morning, first, the Employers' Council on Workers' Compensation. Mr. Baird, perhaps you could introduce your group. Welcome to the committee.

EMPLOYERS' COUNCIL ON WORKERS' COMPENSATION

Mr. Baird: Thank you, Mr. Chairman. It certainly is a pleasure for us to be able to appear before this committee this year. We would like to take a moment to congratulate the chairman on his appointment. Very often we would read of him as a committee member. We hope it is going well under your chairmanship.

Beginning on my left, we have Judith Andrew. Judith is director of provincial affairs for Ontario, working with the Canadian Federation of Independent Business. She was formerly the associate director of research at CFIB and she is working with the Ontario government and opposition parties to represent the views and concerns of CFIB's members in this province. It is a national organization boasting a membership of some 73,000, with approximately 33,000 members in Ontario.

On my immediate right is Ted Nixon, who is consulting actuary and principal in the firm of William M. Mercer. He has a 20-year career in the employee benefit business and has been assisting our employers' council over the past two years on financial and actuarial aspects of workers' compensation.

On my far right is Les Liversidge. Les is the president of the consulting firm of L. A. Liversidge and Associates, whose work is directly involved with workers' compensation. Les is a member of our employers' council and is also involved in a business relationship with some of the members in the employers' council dealing with workers' compensation matters.

My name is Peter Baird and I am the chairman of the Employers' Council on Workers' Compensation.

We would like to proceed to our draft and, if it would please the committee, we would like to read our brief into the record and make comments as we go. Perhaps when we are finished, we can attempt to answer any questions members of the committee may have. In the event we do not have those answers here today, we will undertake to get the answers for you and submit them to the committee.

Mr. Chairman: We have been following a game plan whereby people go through their presentation and, unless there are questions of clarification, we leave the questioning until the end of the presentation.

Mr. Baird: All right. We have our cover page, the index on page 2 and on page 3 we begin.

We welcome this opportunity to appear before you to consider the annual report of the Workers' Compensation Board. This is a significant time for workers' compensation in Ontario, given the implementation of Bills 101 and 32 and the appointment of a new chairman, together with a new corporate board.

The WCB has been in a period of transition in the 1980s, as the Workers' Compensation Act has been reviewed. The Employers' Council on Workers' Compensation, or ECWC, was established as a voice for employers in Ontario during this review when there arose a need to make clear statements on how changes in workers' compensation would affect and have affected the business community.

The ECWC is a broadly based coalition of industry and trade associations representing the majority of employers in Ontario. The ECWC members represent most sectors of the economy and employers of every size. The council was formed in 1983 to address assessment rates, legislative issues and broad WCB organizational and health and safety education issues.

The membership is listed and comprises the following: Automotive Association of Canada; Automobile Dealers' Association of Ontario; Canadian Association of Recycling Industries; Canadian Die Casters Association; Canadian Federation of Independent Business; Canadian Manufacturers' Association; Canadian Meat Council; Canadian Organization for Small Business; Canadian Textiles Institute; Canadian

Warehousing Association; Council of Ontario Contractors' Association; Council of Printing Industries of Canada; Dry Cleaners' and Launderers' Institute; Industrial Cartage Association;

Motor Vehicle Manufacturers' Association; Ontario Forest Industries Association; Ontario Furniture Manufacturers' Association; Ontario Hospital Association; Ontario Mining Association; Ontario Motor Coach Association; Ontario Trucking Association; Ontario Waste Management Association; Ready Mix Concrete Association of Ontario; Retail Council of Canada; Shoe Manufacturers' Association; The Rubber Association of Canada; and The Toronto Automotive Dealers Association.

I am happy to report to the committee that our membership is growing, the interest is positive and strong and we hope we can continue to work diligently towards our involvement in the WCB and the act. The 1984-85 period has been a very active one for the ECWC. Through our legislative subcommittee we have participated fully in the consideration of Bill 101, which included the presentation of two submissions, one to this committee on July 24, 1984.

We have appreciated consulting with the WCB, the Ministry of Labour and the various Ministers of Labour through our subcommittees on assessments and financing, occupational health and safety, claims adjudication and others which represented employers' concerns on structural changes such as the appeals tribunal.

As previously noted, this is a significant time for workers' compensation in Ontario for many reasons. It has never been so clear that costs to the system must be brought under control and that goals and objectives must be established to clarify the role of the board and how to best achieve a balance between delivery and financing of required services. I have certainly underlined that in my presentation because it is a very important item for all of us to continue to consider as we go through this review.

The WCB annual report in 1984 paints a disturbing picture. For the year 1984, the total awards, including the increase in provision for future payments, is \$1.75 billion, an increase of almost 24.5 per cent from 1983. Of the \$1.75 billion in benefits for 1984, \$604 million, or almost 35 per cent, was due to legislative amendments, current and future.

Comparing 1984 to 1983, the board's operating expenses increased by 10.6 per cent. This compares to total increases in spending by the government of Ontario of 8.1 per cent in 1983-84 and 7.3 per cent for 1984-85. The consumer price

index during the same period increased by only 4.4 per cent and 4.0 per cent respectively.

The revenues raised by the board through assessments increased to \$1.06 billion in 1984, up 34.3 per cent from the previous year. This was highlighted on page 12 of the annual report and was attained in large part due to a 15 per cent increase in assessment rates paid by employers, together with a 15 per cent increase in the assessable payroll ceiling, which accounts for the majority of that 34.3 per cent. The differential in that is probably created by additional employment and additional payroll dollars generated by the economic upswing.

Despite these large increases, the unfunded liability again increased from \$2 billion in 1983 to \$2.7 billion in 1984. That is a horrendous number as far as we are concerned. It is higher than the provincial debt at present, which is running on the order of \$2.6 billion. We definitely have some concerns about that, which I believe the committee members will have as well.

The Treasurer (Mr. Nixon) has indicated on a number of occasions that he is very concerned about the province's credit rating. We submit to you that continuing increases in magnitudes of this nature in the area of workers' compensation will certainly affect that in the future.

During our one-hour presentation today, taking the awards and future payments above into calculation, the WCB will award about \$170,000 in benefits. We would point out that, although new claims did increase 12.8 per cent between 1983 and 1984, the number of new claims has dropped significantly over the past five years, from 460,972 in 1979 to 388,845 in 1984.

10:20 a.m.

That is reflected in our attachments on schedule 1, where there is a bar graph to indicate the status as far as the number of compensable accidents is concerned. You will note that it peaked in 1979 and then fell dramatically through 1983. We are attempting now to get details on frequency, which is perhaps a better measurement as it takes into consideration the number of accidents per million man-hours worked.

If we have had a substantial upswing in the economy, as the press leads us to believe, there may be some answers to that increase in the number of compensable accidents in 1983 over 1984. While there may be an increase in the number of accidents, the frequency could even be lower than in previous years, and we want to

look at that as another measurement tool. Those data will be provided to us by the board itself.

The past year has also seen major structural changes in the form of new or expanded panels or offices. These include a corporate board, medical assessors, an industrial standards panel, an appeals tribunal, the office of the worker adviser and the office of the employer adviser. The ECWC supports and welcomes these initiatives on the basis that they will have a positive impact on the WCB system.

We have heard a lot about the new corporate board. I have a clipping on an announcement here from the Hamilton Spectator. These folks are going to have their work cut out for them in this new position. We hope this board of directors will be empowered with some of the things that exist in the business community, that it will be given certain goals and will operate truly as a board of directors for workers' compensation, reporting as it must. I hope its comments are listened to and considered by the various constituencies that will hear what the directors have to say.

We have participated with the appeals tribunal at the request of its chairman, Mr. Ellis. We have been working with it in a positive fashion to try to structure something that will meet everyone's needs. We are concerned at the outset about the possibility of a tremendous backlog of claims waiting to be heard by the appeals tribunal. We are very nervous about that.

We have seen some experiences in other provinces that have gone this way and hope that Mr. Ellis and his people will take some direction from those previous problems. We hope we will have an appeals tribunal that will handle matters in a streamlined fashion without people having to wait six, nine or 12 months to have a case heard and resolved. Those are some of our concerns in that area.

Other than being advised of what is taking place in the office of the worker adviser, and understanding that a chairman, director or manager has been established, it will be interesting to see how that develops. It would appear there is a need for a worker adviser based on the presentations we have read from those representing injured workers.

We are also pleased to see progress with the establishment of the office of the employer adviser, because we also see that as a need and an expanded role. We come before you today as volunteer members of a group called the Employers' Council on Workers' Compensation. All of us have a number of things we have to do in our

day-to-day activities. We take a lot of our business time, and personal time as well, to try to come to grips with the problems surrounding workers' compensation. We hope the office of the employer adviser will be of some assistance in that area.

I would like to stress again that we support all these things, providing they have a positive impact on the compensation system as we know it.

We have some recommendations. As we have said on previous occasions, employers support the basic tenets of workers' compensation and are prepared to work towards the effective delivery of benefits and rehabilitation to those who are injured on the job. Workers' compensation was intended to protect the earning capacity of injured workers, provide medical assistance and rehabilitation and retrain injured workers. The Employers' Council on Workers' Compensation continues to support and endorse these principles actively. We are here today to outline very briefly a nine-point plan that employers believe must be considered and acted upon in the spirit of the review of the Workers' Compensation Board.

Persistency rates or, in other words, the duration of claims: the ECWC recommendation is that a full review of persistency rates must be immediately undertaken by the new corporate board, with its report to be made public. The disturbing trend in increased duration of claims is of tremendous concern to employers. The duration of claims has gone from an average of 7.5 weeks during the 1975-79 period and is now up to an average duration of 10 weeks since the 1982 recession.

During its presentation to this committee on Bill 101 the ECWC presented a study entitled *The Financial Significance of Unlimited Recurrent Disability Under Workers' Compensation*. A summary of that position has been included and forms part of our appendices at the back under the heading of schedule 2.

I would like to read this into the record. We would indicate to the committee that we are in the process of updating this, and as we get more current data we would be prepared to send a copy along, if that meets with your approval.

The fundamental concept of workers' compensation is that all future compensation awards or payments to a worker that can be traced to a particular earlier injury are deemed to be a continuation of the original injury, regardless of the length of time separating the successive series of payments. Thus, an unlimited recurrent

disability is permitted. It is more common in other forms of disability insurance to provide that successive periods of disability payments separated by more than a specific period must requalify as new claims rather than, as in our case, as reopened older claims.

Mr. Chairman: Excuse me, Mr. Baird. I see the committee members looking through their brief. This is at the back of the brief, schedule 2, which Mr. Baird is reading from now.

Mr. Baird: Thank you, Mr. Chairman. Our brief numbers 12 pages. Then you come upon schedule 1, and we are now in schedule 2.

Mr. Chairman: After the chart.

Mr. Baird: It can be shown that dramatic increases in awards granted during the 1982 and 1983 years of the current economic recession can be traced directly to a significant increase in the recurrence of old claims. Analysis of the awards in 1982 is useful. Accident rates have remained relatively stable during the past five to six years. Thus, the increase in awards paid can be attributed to the inflation in benefit levels and a deterioration in persistency rates—i.e., the length of time on claims.

The deterioration in the persistency rates is of greater concern and has two aspects. During 1982, claimants who received compensation for accidents that occurred in 1982 tended to stay on claim much longer than did new claimants during the 1975-79 period. We have identified that 41(1)(b), now clause 40(2)(b), contributes to this problem.

We have calculated that if the 1975-79 average duration of new claims had existed in 1982, about \$35 million less in temporary compensation awards would have been paid in 1982. During 1982, temporary compensation claims stemming from accidents in earlier years were reopened with greater frequency. As well, relatively far more permanent disability pensions were granted or reopened.

If recurrent disability and the rate of awarding pensions had followed the 1975-79 levels, then awards granted in 1982 would have been reduced by the following amounts, and we are talking about reductions here: temporary compensation would have been reduced by \$57.1 million, medical aid would have been reduced by \$8.1 million and permanent disability pensions would have been reduced by \$72.1 million, for an overall reduction of \$137.3 million. Those are the numbers for that particular period. As I said earlier, we are developing the new numbers and we will share them with the committee.

10:30 a.m.

The problems being created by the unlimited recurrent disability concept include the following: the major cause of the unfunded liability is the increased use of recurrent disability during the economic recession. The unacceptable increase in awards flowing from the recurrent disabilities is leaving us with no financial capability to provide benefit improvements to severely injured workers. The assignment of these costs to the original employer on claims reopened several years after the accident may no longer be useful or appropriate, since workers are more mobile and may have changed jobs.

Industries are being restructured, with reduced numbers of employees in many cases in order to be more competitive in world markets. That is what we are hearing about all the time today, particularly in discussions of the free trade concept: Ontario must be more competitive in world markets. We would suggest to you that one of the reasons we are not as competitive as we could be is the costs associated with our workers' compensation.

Rehabilitation efforts by employers to control the costs of reopened claims are not possible if the employee has left. The new employer has no incentive to help claims control, since the cost is assessed against the previous employer. This is rather a shallow statement, but I would suggest to you it is a fact that those employers who have the injured worker on their rosters and see the costs and expenses on their claims statements are much more active in trying to do things than are employers who do not suffer any financial penalty.

Assessment rates are becoming extremely high and, in fact, are artificially repressed currently, with no contribution being made to the payment of the unfunded liability. The result is a transfer of costs to future generations of employees and employers. The unlimited recurrent disability concept is the major cause of this problem.

You may want to keep your fingers on those schedules as we go through, because we may be referring to them further in our brief.

As we indicated earlier, our recommendation is that a task force including the Workers' Compensation Board and employers should be established to set out a strategic direction for funding the unfunded liability.

The WCB annual report of 1984 acknowledges on page 13 the presence of a \$2.7-billion unfunded liability in total, up \$684 million, or 25.3 per cent, from 1983. On an indexed basis

this sum grows to \$5.4 billion, which is truly a staggering sum in my estimation.

Employers may be prepared to accept the financial responsibility for funding workers' compensation as an insurance concept if there is a clear understanding that the Workers' Compensation Board will operate on the basis of recognized insurance industry principles, including full scrutiny of claims. Fifteen per cent rate increases to employers during each of several years is an unacceptable solution to the problem.

You will note on schedule 3 the graph indicating the unfunded liability. It seemed relatively stable through the years from 1976 to 1980, but, for some reason, in 1980 through 1984 this unfunded liability is just taking off through the ceiling. We must do something to address the problem and see whether we can arrest the growth in the unfunded liability while not wavering from the basic concepts of workers' compensation.

Mr. Chairman: Those are current dollars on that chart in the unfunded liability?

Mr. Baird: That is my understanding. Our position on this, unless Ontario is going to get actively involved in the funding, is that we clearly cannot continue to spend more money than we are receiving.

If this were the private sector, this organization would have been long gone from the business scene. The shareholders, if it were a public corporation, would have said, "Enough of this," and I am sure it would have faced some form of liquidation, bankruptcy or whatever. It is clearly out of control, in our estimation, and it needs to be addressed.

Investment return: it is the ECWC recommendation that the Workers' Compensation Board should consider using a four per cent interest rate net of inflation instead of two per cent when estimating assessment rates.

Bill 101 amendments give the Workers' Compensation Board authority to pursue a more aggressive investment policy in future. In addition, economic predictions are that investment returns will outperform inflation by at least four per cent for the foreseeable future. Accordingly, the assumption that this margin will be only two per cent is unnecessarily conservative and has the effect of artificially inflating assessment rates.

In both of those areas there is a clear thought in our minds that, with the new corporate board in place, a more businesslike approach must be brought to the area of workers' compensation. We do understand the concerns and pressures that are brought by the political process, but I

think we are all doing a disservice to current and future injured workers if we allow this system actually to self-destruct from a financial viewpoint. I would stress that we allow the new corporate board and the officials at the board to continue to review this matter and come to grips with it, making recommendations that we hope will be acceptable to all of us to arrest this problem.

Experience rating: our recommendation here is that the application of experience rating to those industry groups that agree to it should be put in place as soon as possible. This should occur before the introduction of other proposals such as wage loss. The ECWC supports the Workers' Compensation Board position in the annual report, and I believe it is referred to under the chairman's remarks on pages 6 and 7, that the new experience rating program be made widely available to all rate groups so that a firm's rates reflect its safety and rehabilitation measures.

I am told by those wiser than I that experience rating has the ability really to come to grips with accidents and safety in the work place of this province and, as a result of that, with the unfunded liability. At present people are put together by classifications and rate groups, and if you have some very good businesses along with people who do not have a good record, they all pay the same rate. There is not much of a financial incentive for those employers who may want to spend considerable sums of money on safety and rehabilitation programs.

I am told that the implementation of an experience rating program would help come to grips with this type of problem and, as a result, we are urging that we do get this in place and monitor it. I am told that the construction industry has had a form of experience rating in place for a couple of years. It is making some impact on what is happening in that industry, and I am sure those folks would have some comments on that.

Classification policy: the Workers' Compensation Board should review its classification policy and consider allowing separate rate groups where risk and location are distinguishing factors for an establishment.

When employers comment negatively about the Workers' Compensation Board, it is often because they believe they have been harshly or unfairly treated. For example, even if an employer can segregate a payroll where low-risk and high-risk employees are in proximity, the higher rate is charged. Office staff never entering a sheet metal factory are often charged the same

rate as the sheet metal workers. Even if those classes of workers are employed by one firm but are in different geographic locations, the high rate could be charged.

I am not so sure we should not be looking at a rate developed by occupation or job classification. I realize this may not be possible, given the complexity of the situation, but we do have businesses in certain business activities paying a certain rate; we have other businesses in other business activities paying a lower rate but which may be competing with those businesses I mentioned earlier.

10:40 a.m.

An example dear to my heart would be the trucking industry. The trucking industry and those people engaged in trucking are paying a rate under classification 656, and people with whom we are competing to haul their goods may have a trucking enterprise under their other business and may be paying a lower rate because it is classified under retail or some other rate. We think this classification policy needs a look.

The same is true with expanding the number of rate groups. The Workers' Compensation Board should consider the practicality and fairness of expanding the number of rate groups to better match employers who are competitors in the marketplace. In other words, along with experience rating, if you do have competitors grouped, where possible, in the same rate group, that may help the program as well with regard to reduction of accidents, safety, prevention, etc.

Employers often feel they are incorrectly placed in an industry rate group with different functions. They have repeatedly asked for a more realistic classification or, in some cases, a separate rate group. Again, on these points we would be prepared to sit down and try to provide some input for anyone who would be undertaking this review.

Medical claims: the board should review its policy on assessing employers for basic medical treatment for no-lost-time injuries, giving consideration to having the costs covered by the Ontario health insurance plan. The administration costs to the employer and to the board in processing form 7s in these instances are significant. Therefore, the policy bears review.

On page 8 of the annual report there is a note that says that 192,919 claims were filed where there was no lost time involved and only medical aid. In our view, when a worker gets injured at work, cuts his finger and has to get it repaired, first of all he has to report it. He has some inconvenience involved in the form 7 process.

He then goes to the doctor. Since it is not a normal OHIP situation, the doctor has some paper he has to process. It comes back to the employer, and he has a form 7 and investigation he has to process. Then it goes down to the board, and it has an administrative function it has to process.

The board was set up long in advance of the OHIP situation. There has to be a tremendous administrative burden in this process involving everyone in the processing of just the documentation, let alone the fact that some employers do pay OHIP premiums on behalf of their employees. They are also paying workers' compensation, which includes in the rate buildup the cost of medical claims and medical aid. We believe this is a significant item. When you look at the 193,000 claims in relation to the total, it is about 20 per cent. It is a substantial amount of activity in the sphere of workers' compensation.

As well, an argument may be suggested or a principle put forward that the board feels it needs this information because if a lost-time injury ever develops then it will have some detail or some notice of the original problem. I would suggest that it still is the right of the worker to go to a doctor of his choice, and it has been my experience and the experience of those on the committee that it often falls to a family doctor to whom he goes for repetitive things. In the event a lost-time injury developed as a result of a medical aid claim, that same physician would have the information and could provide it to the board for those people reviewing the claim. We believe this is a very significant item, and it is too often hidden under the paper burden we all suffer from today.

Rehabilitation: we believe the board should turn more of its resources towards the rehabilitation of injured workers. Employers agree in general with the annual report to the extent that getting injured workers back to work is a top priority. It is certainly in the interest of employers to have capable and experienced workers on the job. It is also in society's interest to have a well-trained and effective work force. Lengthy periods of inactivity have a negative impact on injured workers. The board has spoken proudly of successful efforts to rehabilitate injured workers, and the Employers' Council on Workers' Compensation believes that new resources could be legitimately targeted to further this purpose.

On page 10 the report refers to 5,560 cases referred on a first-time basis and approximately 2,073 reopened. This perhaps all ties in with

persistence and duration of claims and things of that nature. If we are having serious problems with getting injured workers rehabilitated, back to work if their old jobs are there, retrained and on to a new job if their old jobs are not there, then surely with everything that both the federal and provincial governments are doing in the area of retraining perhaps we should be looking at beefing up this situation from a financial viewpoint and ensuring we are really putting the dollars into retraining, which will benefit all of us. In direct proportion, reducing this persistency, the duration of claims, and getting people back to work has got to have a significant impact on the cost of workers' compensation and the unfunded liability.

Some short-term money up front to address this situation may result in some long-term gains for the system itself in reducing those ongoing financial responsibilities.

The last recommendation talks about the treatment of surviving spouses. The Workers' Compensation Board system should move immediately to close the gap completely and ensure full catch-up for surviving spouses caught under the old rules. During consideration of Bill 101 and Bill 32, consideration was given to the position of surviving spouses, mostly women. Bill 32 moved toward the principle of narrowing any gap that existed between surviving spouses, depending on which set of legislative amendments were involved.

I would like you to refer now to schedule 4 at the back of the brief. That is a very simple graph indicating the workers' compensation benefits from 1976 through 1984. You will see some moderate growth through 1976 up through 1979 and then we really took off from 1979 on.

Schedule 5 is a graph indicating the percentage of pension cost versus total benefits. You will see that in 1977-78 we actually had a decline and then we continued to have an increase in pension costs.

The last document relates the average assessment rates set by the board, the earnings ceiling on assessable payroll, the average cost per employee to employer using those two criteria and the change.

I do not know if it is generally known, but the employers of this province volunteered to go to an earnings ceiling of \$31,500 on January 1, 1985 to get ahead of the one in April and the catch-up situation. In a comprehensive way, we are trying to come to grips with this problem. I know it has been suggested from time to time that employers had a freebie for a few years. That is

not necessarily true except for the period of 1979 to 1980, but there have been some substantial increases there. They most certainly continue to increase, with the last two years being in excess of 35 per cent and in excess of 32 per cent.

We would suggest, with respect, that the average cost to employer per employee has risen by 271 per cent from 1975 through 1985, while the consumer price index has increased 109 per cent and the average industrial wage has increased 129 per cent.

It has been said and reported many times that employers are only interested in cost, the financial aspect. I would like to report that while the employers still are concerned about that item, great steps are being taken in the business community to come to grips with those other things that happen before costs, such as accident prevention, safety and dealing with the various accident prevention associations provided by the board.

The Employers' Council on Workers' Compensation, through its efforts and through the trade associations which represent it, is actively trying to come to grips with this problem and is explaining to employers the consequences of this situation. One of the associations, the Ontario Trucking Association, has implemented what it calls a Workers' Compensation Board Advisory Service where its members are continually getting updated information, seminars, educational activities, things they can use in their own businesses to try to come to grips with the workers' compensation problem in this province.

10:50 a.m.

We are not going to turn it around overnight. It is going to have to be a consistent, on-going effort for some years to come.

We would hope that through the political process elected representatives would realize that we cannot continue to increase at the rate we have been increasing unless there is going to be some magic with this money, because we cannot go on this way with the unfunded liability rising as it is.

I am sure we have some employers out there who are not doing as much as they should be doing. I am sure it is true there are injured workers out there who were injured as a result of not adhering to safety programs and policies in place, but somehow we all have to come together to get this problem reduced, slowed down and back in perspective. As we have said in the past, we are committed to working towards that end and we are at your disposal for any questions your committee may have.

Mr. Chairman: Thank you, Mr. Baird. I have a couple of questions, and I am sure other members have a number as well. I think you have stimulated some interest in your brief.

First of all, you are in support of the insurance concept, rather than a pay-as-you-go program in workers' compensation.

Mr. Baird: What we mean by that, Mr. Chairman, is that the problem we have or the problem we think we have with the system today is that—and I am trying to be as charitable as I can—it seems to us the increases, in the way the board operates with legislation and increases in benefits and everything else, are very politically driven. That is the part we are very concerned about. We do not want injured workers to suffer. We do not want somebody who was injured 15 years ago out on the poverty line. We want him to be looked after and to be able to live with his disability.

In certain areas, we have people who are back at their old jobs, doing the same work and getting the same rate of pay as their fellow employees, but the fellow who has had an accident is getting a premium, because he has got a pension of \$100, \$200 or \$300 a month.

Mr. Chairman: Okay; but you understood my question, did you? You want a funded system rather than one that assesses the need to pay out as the system goes.

Mr. Baird: That is part of our consideration, yes, sir.

Mr. Chairman: Second, on page 9 you talk about the investment return. The last sentence says, "The WCB assumption that this margin will be only two per cent is unnecessarily conservative and has the effect of artificially inflating assessment rates." Would that not, as well as artificially inflating the assessment rates, have the effect of reducing the unfunded liability year by year?

Mr. Baird: If the upper rate was used?

Mr. Chairman: Yes.

Mr. Baird: Yes, it would, sir.

Mr. Chairman: The other question has to do with your comments on experience rating on page 9. We had a very interesting presentation—and this applies also to the group rating comments that you make later on—yesterday from the Association of Injured Workers' Groups in which they talked about some employers getting a free ride.

For example, a construction company goes in, does work and pays a very high assessment rate, relatively speaking, whereas the developer who

puts together the land assembly and does all the capital formation, and so forth, has a very low assessment rate because of the nature of the job which those people do in finance and clerical jobs and so forth. That developer reaps the benefits of the job and of the higher rates that the contractor, for example, pays. Yet it seems to be contradictory to what you are saying here. You are saying it should be more specifically targeted to the employers with the high accident rate.

Do you not feel that the developers who are reaping the benefit or financial reward for the development are not paying their fair share?

Mr. Baird: Mr. Nixon, our actuary, has a comment on that, and I will have one probably as well.

Mr. Nixon: I do not see a big problem with that. It seems to me that the contractor who is doing the job has more control over the workers than the white collar developer. The contractor prices his job to include whatever his workers' compensation costs are, and the developer has to cope with that, and has to pay him for that. The developer is primarily responsible for his own employees, and not for the employees out on the job site. You want to get the control as close to where the accident possibilities are, and having a contractor is more appropriate on the face of it. However, I sympathize with the viewpoint that the developer seems to be making an awful lot of money.

Mr. Chairman: Yes. In other words, the more heavily experience rating comes into play, the freer ride people get who do not employ people in dangerous occupations.

Mr. Nixon: Yes. Fair enough. I cannot argue against that, but I am not sure that ought to be the issue.

Mr. Baird: Mr. Chairman, if I may, one of the concerns I have with that type of philosophy is it has been suggested to me many times that the person who is in control of the work place is the individual who can have a positive impact on what happens there, rather than someone removed two or three steps.

What we were talking about in our situation was the classification where it is all in one firm with a segregated situation, like occupations but different rate groups. In other words, if trucking supposedly had a risk factor worth \$5 per \$100 of payroll and retail had a risk factor of \$1.50, but there was a major trucking portion in that retail operation, trucking operations, being like businesses, have got to be somewhat the same.

Mr. Chairman: I have a more collectivist approach to it than you do, Mr. Baird.

Mr. Baird: Okay.

Mr. Chairman: The only final comment I wanted to make was—

Mr. Barlow: Oh, sure.

Mr. Chairman: No, these are matters of clarification for the committee.

In referring to schedule 2—

Mr. Ramsay: I am sure I do not understand as much as you do, Mr. Chairman.

Mr. Chairman: This will help.

Schedule 2 is the explanation. You talk about the whole question of the length of time people are off, and as time goes on that is becoming a longer length of time. I do not know the answer to this. Have you been able to determine whether it is because traditional industries perhaps tend to have the older workers as society and industry changes and we end up with more of a clerical society, that it is inevitable the recurrences will be among primarily older workers and therefore the problem is more serious? I do not know the answer. Mr. Nixon?

Mr. Nixon: That is quite possible, although we have not looked at that. It is quite possible that in resource industries where there is a declining work force many of the older workers are having trouble finding work elsewhere, and in those situations there will always be a tendency to stay on claim longer. If they cannot get work there is no incentive to recover.

Mr. Chairman: I will restrain myself from further questions, since my colleagues are getting impatient.

Mr. Gordon: I am certainly interested in hearing your remarks about the appeals tribunal, because the committee expressed concern about the length of time for these claims to be reviewed. I say this with tongue in cheek, but perhaps with regard to the unlimited recurrent disability Mr. Martel has been too successful over the past few years getting awards for some of the workers with whom he has been working so hard; however, we will not say it is all his fault.

Mr. Martel: You might as well; you would not be alone.

Mr. Gordon: In view of the unfunded liability we seem to be faced with, and it is probably going to get worse, what is your view on expanding the net with regard to firms being included in the Workers' Compensation Board, firms which are not presently there, or institu-

tions which are not part of the WCB insurance scheme?

Mr. Baird: Would you be referring to schedule 2 employers?

11 a.m.

Mr. Gordon: For example, insurance firms, financial institutions being more heavily involved.

Mr. Baird: You have me at a bit of a disadvantage, Mr. Gordon. Could you expand on that just a bit, please?

Mr. Gordon: Perhaps you would like to expand a little bit on schedule 2.

Mr. Nixon: Thoughts have been raised about including financial institutions in this. A more appropriate argument might be made in favour of including new developing industries. To the extent we have a declining work force in some of the resource industries and are developing high-technology industries, for instance, an argument might be made that those high-technology industries ought to be bearing a slightly greater share of costs to the extent they are taking some of the workers who were in the resource industries.

Your argument might be a little more soundly based if it went that way as opposed to dragging in the financial institutions which have never exhibited any level of costs in the first place. There does need to be some way to look at addressing how you are going to cover the costs associated with a shifting work force. In northern Ontario those people have to work somewhere; either they move out or you are going to have to develop new industries in the area.

Mr. Chairman: We had not noticed that happening.

Mr. Martel: I must admit I had difficulty containing myself as you presented your brief, because I happen to believe you are tackling the problem totally from the wrong area. I do not think employers can have it both ways. You cannot resist increases in costs when you resist occupational health and safety, which is the only solution to reducing the cost to employers.

I looked casually yesterday at the latest figures available from the Ministry of Labour with respect to violations under the Occupational Health and Safety Act and the number of orders issued under that act, which barely represent what is going on out there in society. In industry, there were 83,000 nonfatal accidents reported in 1983-84. The number of work orders issued by the Ministry of Labour, 48,881, does not reflect what is going on, because the ministry does not

have enough inspectors. That is just in the industrial sector. Repeat orders, that is people who have had an order and have not bothered to fix up the problem, numbered 4,800.

If one looks at construction safety or mining one has the same problem. Let me just give you an example of two mining companies in the north last year. One company has three mines. Its first aid in one mine was 125; its medical attention, 130; and its lost time, 30. The next mine had figures of 123 for first aid, 86 for medical attention and 20 for lost time. The third mine had 138 for first aid treatment, 111 for medical attention and 47 for lost time. The other mining company had figures just as devastating. When one calculates these two mines, 92.7 per cent of their hourly work force had an accident last year in one mine and 74.3 per cent had an accident in the other.

Having been heavily involved in occupational health and safety over the many years I have been here, I have some difficulty sympathizing with this type of brief because it does not deal with the real issue. All you are worried about is holding costs. I am concerned about preventing accidents and industrial diseases. Most of that does not even reflect the number of industrial diseases for which workers do not get compensated. I really have difficulty.

I look at your stuff on rehabilitation. I know mining companies that are firing 60 or 70 people a year because they have had industrial accidents. They are being dumped on the scrap heap. It now has become commonplace in Ontario to fire workers once they have been injured.

Nowhere in your whole report do you deal with the real, fundamental issue. Your whole presentation deals with saving costs; not with reducing accidents and not with reducing industrial diseases, but with saving money. If you want to save money, there is a way to do it: Reduce the number of accidents and the number of industrial diseases. Stop fighting the Occupational Health and Safety Act that was put in place so that management and labour together can reduce accidents and industrial diseases.

Having travelled the province as I have done over the last couple of years in regard to occupational health, I must say there is great resistance, primarily by management, to introducing meaningful health and safety. I do not know what your response is, but I do not have a very sympathetic ear; I am sorry.

Mr. Baird: We came here today in response to the 1984 annual report and that is what we have tried to address. We have indicated to this

committee verbally that we are doing our utmost with our members and we are assured they are working through their constituency.

It may not be at the 120 per cent level. As I hope you can appreciate, as the Employers' Council on Workers' Compensation we do not have any direct control over what people do in the work place in their businesses. However, I can assure you that in the constituency I am dealing with and among the people I am talking to there is quite a high level of awareness by employers in this province about their responsibilities under occupational health and safety to try to reduce accidents in the work place. They share your view that there will be no cost to talk about if there are no accidents in the first place.

There are people who have a number of very good programs in place. I am sure there are probably as many people who could not care less about accident prevention. This thing has been going on for many decades. We are trying to come to grips with it and we are trying to be responsible in representing the employers of this province. We are not coming to you just singing the old continual song about "no more costs" in isolation. We are indicating to you that we are trying to come to grips with the problem.

I have made a note. The next time we come before this committee we will be prepared and armed with examples of some very sophisticated health and safety programs that are working. We will share them with the committee.

Mr. Martel: I can tell you about some that are working. At Algoma Steel Corp. Ltd., for example, it is working; and Inco's health and safety program is much better than it was 10 years ago. On the other hand, I can tell you about employers who continue to resist any move to occupational health and safety, about companies that still do not have an occupational health and safety committee in place in the plant six or seven years after the act was introduced.

11:10 a.m.

You have said the board reacts to political pressures. Let me ask you a question. What would you do with employers who fire workers? What would you do with employees who are being dumped on the scrap heap by employers once they have been injured? What change would you make to ensure they are in a position to support their families in the same way you and I would want to support ours? What would you do to the employers who are firing them? I could tell you right now of one company that has fired at least 60.

Mr. Baird: Unfortunately, that is a very serious question to give an answer to just like that. As a committee I think we would like to consider the ramifications of that with our council and see whether we feel it is within our jurisdiction to comment on how we think those people should be dealt with.

There are certain segments of industry in this province where, regardless of whether you are injured or not injured you come back to work, where if you are capable you take your old job and there is no problem. There are other industries that do not operate that way by virtue of the nature of their business. I appreciate your question. I am not going to be able to give you an answer, but I will undertake to get you an answer.

Mr. Martel: Another thing that intrigued me was your medical claims. Are you eventually moving to a suggestion that we should have universal sickness and accident insurance? In what you are stating you obviously want the Ontario health insurance plan to pay for some of the claims, particularly those that are not too serious. Is a move towards universal sickness and accident insurance the ultimate solution to the problem confronting not only workers. One cannot yet prove industrial disease in our society, except in a relatively few cases, yet the cost of such claims continues to escalate very significantly. Is there only one solution, universal sickness and accident insurance?
 serious. Is a

Mr. Baird: That is a very good question. Let me go back to our comment on raising the issue of medical aid here. We found in our research that nobody is happy with the cost of the current medical aid situation. When you talk to the doctors, the medical association, they say, "We are neutral in this case, but we do not like submitting claims for medical aid to the board any more than anyone else." We have looked at an area of cost and said, "Perhaps this is something we could look at in isolation and do something about."

Mr. Martel: My concern is that you want to deal with one little thing in isolation. The easiest one to cope with is medical aid. Then you walk away from the rest. The one with the big cost is the one that is bothering all of us. From the board's perspective, it is the five per cent that are rehabilitation cases. Those are the big costs. Those are people who are not getting back to work and so on. Surely that is the area of concern to us all, one that creates problems for us all.

The fractured leg that mends in a hurry so that someone can go back to work at the end of six weeks is not the problem for us as members of the Legislature or for employers. The problem for us is the long-term problem, the back injury and so on. You are attempting to deal with one cost factor in isolation from the rest. I hardly think that is a fair way to approach a very significant problem.

Mr. Baird: What would you do? Would you like to see socialized medicine?

Mr. Martel: Quite frankly, yes. I have looked at the New Zealand plan. I would then stop fighting with the lawyers. I would stop fighting with the courts and I would stop fighting with the insurance companies to prove whether it was car insurance or accidents at home. I happen to believe that when you are disabled, it does not matter how you get disabled. You are as disabled at the work place as at home or in a car accident.

Finally, I might say there are only two or three things people need when they are injured. One is income and one is retraining. I would simplify it and get away from the morass in front of us right now.

Mr. Baird: You are certainly entitled to your opinion.

Mr. Martel: You might tell me yours.

Mr. Baird: I do not have an opinion on it at present because, obviously, I find it a very complex subject. We are not losing sight of the high-cost claims for those injuries. We are trying to come to grip with them in other areas. In this medical aid situation, we feel there is an area that can be dealt with to the mutual benefit of everybody, where we can save some costs and go forward on that basis.

Mr. Ramsay: Mr. Baird, you would make a fabulous deputy minister with the way you handle questions. That is just a comment on the bureaucracy and on my dealings with the bureaucracy in my limited time in the position of elected member.

Like Mr. Martel, I am concerned that occupational health and safety do not rate a written section of your proposal. I am pleased that you did bring it up in your oral submission after the written proposal. We could probably all agree that it has to be the number one problem. If we could make a much safer work place, all the other problems you are concerned with would be lessened.

I would say that, yes, the unfunded liability is out of control at the moment. It is a horrendous figure, but at the same time hazards in the work

place also seem to be out of control. I think that is where we have to look.

Another point you mentioned was rehabilitation. I think that is probably the second-largest area we have to look at if we are to solve this problem. You observe in your submission, in section 8 on rehabilitation, that lengthy periods of inactivity have a negative impact on injured workers. I agree with that wholeheartedly. When dealing with cases that come to my office, the problem I find is that injured workers have a tough time getting back into the work place. I think that contributes a lot to the inactivity period, which I agree with you is a great concern and magnifies the problem.

I would like to get your reaction and comment. If the government proposed legislation to make it mandatory for employers to hire back injured workers, what would you think of that? To my thinking, that might be one of the answers in sharply reducing the costs of the Workers' Compensation Board and getting people back to work.

Mr. Baird: I am not sure that is totally necessary. As we indicated in our brief, the experience rating, with the substantial benefits it would have for employers who do not have accidents or have just a few, who have a good record and things of that nature, has the ability to generate that type of enthusiasm with employers in this province without some mandatory labour law relative to "you will" or "you will not."

Mr. Ramsay: With experience rating we are dealing with assessing the employer his fee, his contribution to the plan; I am talking about the rehabilitation end. The most practical form of rehabilitation would be experience in the work place, just as the most practical education one could get would be experience in the work place. How do we address the issue of getting these people back to work? Obviously, it is the employer who has to co-operate in making this contribution to get an employee working.

Mr. Baird: It is not one-sided. The employer does not just risk a penalty under experience rating; he has the ability to receive a rather large credit as well. He may examine the activities in his work place with his injured workers, look at the overall situation and see what he can do in a more positive fashion than he is doing now with regard to rehabilitation, retraining and getting an injured worker back to work.

Some of our members have commented on the whole area of injury. You have a worker off, perhaps with a back injury. He goes through the drill. He reports it and goes to see his doctor.

Time goes on. He certainly has his rights under the act to go to his doctor and things of that nature. You often follow up wanting to get the employee back to work and the employee says: "I cannot come back yet. I have not recovered." Perhaps the doctor says: "He should not go back yet. He has not recovered." I think there is a grey area there. If the participants would work a little more closely together we could get those people back to work.

Mr. Ramsay: If you are so concerned about the problems, do you not think the onus should be on an employer to try to make a place in his work force for injured workers? The worker does not necessarily have to go back to the same job right away. Why not say: "Come on, Bill, it would be better to get you going"? I am sure the fellow would rather receive a paycheck. In my experience, people would rather do that because they have self-esteem and make more money. It would keep them mobile. It would be better in eventually getting them back to the original job. As you say, it would keep them moving and get them away from inactivity.

I think the onus has to be put on the employers to make those allowances. It is going to take extra effort. Perhaps one will not get full value in that period from that employee, if it is looked at it in a cold dollars-and-cents way; but in the long run maybe one is getting full value, because it will lessen the costs of the WCB and eventually of the assessments.

11:20 a.m.

Mr. Baird: I hope you can all respect that in sitting here today representing the employer's council it is very difficult to give direct answers without having the benefit of the thinking or the input of some of our members.

The suggestion you are making is obviously true. If you can get people back to work more quickly, obviously the financial aspect of workers' compensation is going to be less. What we find with a lot of employers is because of the economic situation everybody has been through and because of the changes in the businesses themselves, modified work such as light duty and things of that nature are not as prevalent as they may have been five or 10 years ago.

The trucking business is hard work. It means being out there driving a truck; lifting, bending, doing all those things. Light duty or modified work in our industry is difficult, unless we bring the drivers inside and put them in a clerical function, which they resist strongly because of the difference in the job and because they are not trained. It is very difficult in an industry such as

that to deal with a large number of people who are looking to get back in. However, it is certainly a matter that could stand review by all parties.

Mr. Ramsay: I was bringing it to your attention because you talked about the system being politically driven. If health and safety were a bigger concern or were perceived to be a bigger concern by us, the politicians, you would not have Mr. Martel breathing so hard down your neck. He would perceive that as being a big concern and you would drag him politically the other way because of that.

Mr. Baird: I think the other thing is that in our new economy, if I can put it that way, small businesses are really in a difficult position. If they employ two people and one gets injured they have to fill the job to continue. That is why I say it is so difficult to say, "Business or industry, you should do this." There are many variations and many aspects that make it hard to respond in a positive fashion.

I believe that in a high percentage of cases the small business people do come back and employ a fair percentage of the workers who have been injured and get them back into the routine again. The philosophy is great, but it is a very complex situation that requires further study.

Mr. Chairman: Mr. Barlow is next. I think we should then move on because we have two other presentations this morning.

Mr. Barlow: I am aware of the time factor. I have only a couple of comments, and a bit of discussion on the comment about occupational health and safety. I think it is something your group, the Employers' Council on Workers' Compensation, should address as an overall body. Like you, Mr. Baird, I am a bit familiar with the trucking industry. I feel that in most cases the trucking industry is responding with the occupational health and safety committees and so forth. Sure, there are some bad apples in every barrel and we have them in our industry.

You devoted a section to the rehabilitation point you brought up. I am pleased to see that. Your comments are virtually the same as what we heard from the side of the injured workers and from the responses of the two critics on the first day of our sitting. I agree with the Minister of Labour (Mr. Wrye) that rehabilitation is an important thing. We should be getting the injured worker back to work as quickly as possible.

For a moment, I would like to discuss the recurrence of disabilities. You are suggesting they should be treated as a new claim. I guess there are two sides to that story. If it is a recurrence and it is treated as a new claim

regardless of the injury, and if it is charged to the new employer when it is caused by a previous injury, the potential new employer of course is going to resist hiring anybody who has had a previous injury. I wonder how the recurrence problem can be totally addressed.

Mr. Nixon: I know that is the first reply or the first thought that comes up on that issue. As to the recurrence, I feel it needs a good look because it does not seem to have been looked at in a lot of the earlier discussion in quite that way. Having it the way it is, there is not the incentive for the employer to get the person back and there is nothing that can be done there.

We have had some new legislation, since that unlimited recurrent concept went in, that helps. We have the Employment Standards Act and human rights legislation. Does the new employer have to know that the employee he is about to hire had a previous workers' compensation claim? I do not think he does.

Mr. Barlow: No, the worker does not have to divulge that, but I can see problems—

Mr. Nixon: Yes, and I know—

Mr. Barlow: You do not have to answer. We are not going to have an answer right now in the very limited time we have to discuss this.

Mr. Nixon: That is the first thought that comes up, but the problem is serious enough that it begs for a little more constructive look than saying that unlimited recurrent disability, the way it has been forever, is good. I do not think it is dealing with the control issue properly.

Mr. Barlow: One of the things this committee hears from the injured workers and the unions—and it is a real concern—is that if they make it known to a possible employer that they have had an injury then the possible employer is going to say, "I don't want anything to do with you."

Mr. Nixon: Under human rights, they cannot say that.

Mr. Barlow: Although under human rights they are not supposed to say that, there are other ways of rejecting that employee. It is a real catch-22 situation and it is something that deserves an awful lot of consideration on all sides. That is all.

Mr. Nixon: I do not think sloughing it into the second injury fund is the answer. The thing employers understand best is control and dollars incentive right close by. If you can get that control closer to the problem, we have a better chance of getting injured workers back to work.

I do not think experience rating is going to solve that problem because the recurrences that

occur more than three or four years down the road are not going to come up through the experience rating system. We want to compress that period where the employer is looking right at that employee. There are all kinds of ways of getting the employer to get the injured worker back to work.

Mr. Baird: Mr. Chairman, you could communicate with us in the future if you would like to have us present something on occupational health and safety. I have just finished a year as president of the Transportation Safety Association of Ontario and I have a fair bit of knowledge about what is happening with the safety associations of the board.

From my experience in working with those safety associations through a board of directors, they are working very diligently to try to make sure everything in that area is brought to the attention of the employer. I will not say the Transportation Safety Association of Ontario is run like a business, but it is getting direction from the board of directors and it is out visiting and highlighting the companies having problems in an effort to solve the problems and address the situation.

I am sure we would be prepared to research and review that, and come back at a later date if necessary to talk on that specific item, because I think it is a very important item.

Mr. Martel: Can you tell us how many trucking firms do not have an occupational health and safety committee yet? That is where it has to start.

Mr. Baird: We might be able to, Mr. Martel.

Mr. Chairman: Thank you, Mr. Baird, and your colleagues for coming before this committee. We are going to attempt to put together a summary of recommendations people have made to us and perhaps even come up with some recommendations. We will make sure you get a copy of that.

Mr. Baird: Thank you very much, Mr. Chairman; and thank you, committee.

11:30 a.m.

Mr. Chairman: The next presentation is from the Asbestos Victims of Ontario. Mr. Ed Cauchi is prepared to present it to us. Mr. Cauchi, welcome to the committee. I hope you will introduce whoever is with you.

ASBESTOS VICTIMS OF ONTARIO

Mr. Cauchi: We will introduce ourselves, Mr. Chairman.

Mrs. Barney: I am Mrs. Barney. I am a widow.

Mr. Chairman: Any time you are ready, Mr. Cauchi.

Mr. Cauchi: Thank you, Mr. Chairman and members of the committee. We are glad we have been given the opportunity to bring our problems here today, but we are not too happy that we have had to come back again and again in the past few years to say the same thing over and over.

We are a small group of disabled workers and widows who have been done wrong by a ruthless corporation and the Workers' Compensation Board. We have been pushed around for too long. We have been promised justice but for us justice does not seem to come.

We started in 1976 with about 300 disabled workers and widows. After nine years we are down to about even numbers; there are as many widows as there are disabled workers. We waited four years from 1980 to 1984 while we went through the Royal Commission on Health and Safety Arising from the Use of Asbestos in Ontario. We attended the hearings. It cost the taxpayers of Ontario \$1.9 million to complete. The report has been out for almost two years but nothing has been done. Most politicians have forgotten about it, but I can assure you we have not.

The government of today had better start doing something about the recommendations. I am not very optimistic about any of the recommendations being implemented, but as I was always taught, an optimist is a pessimist who lacks experience. It is a fact that you are sitting before me today and I am speaking to you, but it is only faith that makes me believe that anyone is listening to me.

The test of your progress is not whether you add more to the abundance of those who have much; it is whether you provide enough for those of us who have so little. Legislation is never quite right. It arrives on the order paper full of backroom compromises that will weaken its effectiveness and spoil its aim, but it will be passed. Usually it is neither wholly admirable nor completely awful, but it is flawed.

The flaws are there because the language of legislation is narrow but committees are diverse, because human ingenuity fails before the task of anticipating consequences and social change, and because integrity is a luxury usually reserved for those out of power. Politicians have other priorities such as taking control, quieting useful pressure groups, finding the middle of the issue on costs.

You have before you our brief. I would like to say the same thing as I say every time we appear before a committee such as this and during the hearings.

The founding principle of the WCB act, as stated in 1913 by an Ontario Supreme Court judge who had a role in framing the law, was that it should be impossible for the wealthy employer to harass an employee by compelling him to litigate his claim in court. Yet now, not only the employer but the whole process can provide that type of harassment.

Justice is doubly difficult to obtain when a worker is thrown into such hostile and unfamiliar settings and when the board dodges its legal obligation to give claimants the benefit of the doubt. In our case so much is known about lung diseases that can result from working with asbestos that Dr. Irving Selikoff, internationally known expert on the subject, says, "Asbestos is no longer a scientific problem; it is a social problem."

Claims such as ours that lack documentation of medical reports often sit unattended until someone protests, since there is no automatic review of the status of the claim. We do not receive answers to our requests and many answers do not provide any real information as to the problem in processing our claims.

The board must no longer view its role as passive administrator of claims but must take an active role in the forefront of occupational accident or illness prevention. The board must operate under its motto, "Justice, Humanely and Speedily Rendered."

We acknowledge that the board handles in excess of 400,000 claims per year and that is no mean task. We acknowledge as well that most claims are handled satisfactorily. Surely the test of the board is not the capacity to handle the easy claims, but the capacity to handle those that are complicated and difficult, often dealing with matters of industrial disease.

I sat in here last week for three days listening to questions and answers and I was very disappointed. Yesterday Mr. Martel said he detested being told that something is not what it is. During the last 23 years that I have been involved with health and safety at the plant, Johns-Manville never appealed a case at any WCB hearings. Our problem is not with Johns-Manville; it is with the WCB personnel.

Johns-Manville does not pay one cent towards our compensation fund. You were talking about the funding liability. Johns-Manville did not and does not pay a cent towards asbestos victims, the

widows and the disabled. Why? Because they are not in the asbestos business any more. They are still a corporation and they are still making money.

If Johns-Manville does not pay a cent towards our benefits, if it does not appeal the cases, why does the WCB insist on sending our medical records to the company but not to the disabled? The asbestos royal commission report suggested that the WCB go after Johns-Manville for payment. That was in 1984. A year and a half later, almost two years, nothing has been done.

In his report to the Legislature, the Minister of Labour at the time, Dr. Elgie, stated that the Weiler report recommended empowering the board to recover the unfunded liability of an employer for its employee's injuries if the employer went out of business. Johns-Manville is not out of business; it is still making money. All it did was stop the litigation in the US.

We have to fight what is in the act. We are not fighting the Legislature; we are fighting the WCB and its guidelines. You people go into the Legislature and you have committee hearings. Years later you pass an act and then the WCB makes guidelines. That is what we have to fight. None of our people ever received compensation for psychological impairment, or were given the benefit of the doubt. Where is the benefit of the doubt that was suggested by the Dupré royal commission or by the founding of the Workmen's Compensation Board in 1913?

Board doctors should not be the examining physicians. A major problem with the board doctors is that they give both legal and medical opinions. They render lay adjudicators impotent. Doctors should not be on the medical review panels making legal decisions that affect the workers' entitlement to benefits; rather they should serve as consultants on medical issues only.

We have to question the surveillance program at the occupational chest disease clinic for asbestos workers. I would like to explain the system to you. During the course of employment, many companies that use different kinds of substances and chemicals have to be surveyed once a year. All the employees are surveyed once a year, whether they are in Sudbury mines or in a General Motors or Johns-Manville factory.

11:40 a.m.

When our plant opened in 1948, the mobile unit came once a year and took X-rays of each employee. They knew the danger was there in 1948 when the doors opened. Most of us who are not working there any more, who are out of the

plant, are not even called any more to be reassessed or checked as was promised during the royal commission hearings.

When you go there to be assessed, after your family specialist sees you and tells you that you have a problem, he writes letters to the compensation doctors. They call you up and they give you an X-ray. They check your pulse and tell you how many pillows to use and how much walking you can do. A month later you receive a letter from the adjudicator saying there is no evidence of chest disease after three or four specialists have said you are terribly sick with asbestosis. I will come to my case later.

A recent report to the Ombudsman stated that the WCB puts itself above the law, ignoring applicants' medical evidence and failing to take into account nonmedical factors when assessing permanent disability pensions. On April 29, 1983, Russell Ramsay, the then Minister of Labour, issued a news release about the second phase of the Weiler report. One of the recommendations was that an emissions fee for hazardous exposure might be charged to firms generating toxic emissions. Proceeds from the fee collection would contribute to the WCB fund for the compensation of industrial disease victims. That would put the liability down.

Another problem we face is that an injured worker has to ask for permission to select his own physician or to change physicians.

Submissions by Johns-Manville to the royal commission on October 13, 1981, indicated that Johns-Manville sent correspondence to the WCB with recommendations on how to apply the asbestos rehabilitation program. Where is the correspondence? What were the suggestions? The Asbestos Victims of Ontario would like to have them.

Another problem we have with disabled workers out of the plant is Travelers Canada insurance. The Travelers insurance company that we were insured with by the company saw fit to pay millions of dollars in the United States, but in Canada about one in 10 collects insurance and nothing has been done about it.

When we ask legal experts to tell us what to do, they always tell us that Johns-Manville and Travelers have a lot more money than the Asbestos Victims of Ontario and, therefore, we cannot take them on because the costs would be enormous. How can a disabled man or a widow take on Travelers as well as Johns-Manville?

Some were paid and some were not. Johns-Manville declared bankruptcy three years ago, yet it is still in business and making big money.

To find out what kind of company we were working for, all you have to do is read the July-August issues of the New Yorker magazine.

I want to explain to you about the benefits we got after we left their employment and went into the rehabilitation program. Our group went into the rehabilitation program in three sections: the first group, the second group, the third group. The first group, when they left employment, did not get a single cent from Johns-Manville, no benefits and no Travelers Canada insurance.

You talk about getting two classes of widows, but look at us. There are about 30 or 40 of us in three classes.

The first group does not get anything. We have to pay for our own drugs and we have no pension. All of us have more than 25 years' service. We are not talking about two years, but 25 years or more, and no pension, no benefits, no insurance.

The second group gets its benefits paid for and no insurance.

With the third group, the company saw fit to say, as Mr. Martel was saying: "Hey, these people are too old to walk around here. They have been here 30 years. They are in their late 50s. They are crippled. Let us pension them off." They sent a letter to the Workers' Compensation Board to put them on rehabilitation. They did. The company pays their benefits; it pays their insurance; it pays their pension and Travelers pays them as much as \$14,000 or \$15,000 in a lump sum.

There are three classes of people who are on rehabilitation. The people, such as myself, who came out the first time, have nothing except what the WCB sees fit to give. The second class gets only its benefits paid for, and the third class gets benefits, its pensions plus its Travelers insurance policy paid up.

I have to explain to you how these widows are treated. Johns-Manville Canada Inc. created a world-class disaster, as stated by the Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario. As you will see before you, there is a list of deceased members. If the member was assessed at 100 per cent before dying, there is no problem for the widow to collect compensation; she will get it automatically. But if the husband happened to be assessed at 50 per cent compensation, tough luck.

Before the husbands died, these women had some income. As soon as their husbands died, all the widows got was a letter, as Mrs. Barney will explain to you. The letter to the widows said, "I am sorry, but this is the last cheque since your

husband died from a mosquito bite," or from stepping on a banana peel, or you name it. There was an excuse, but not that the husband died from the asbestos.

You have a copy stating that 31 of our deceased people were assessed at zero per cent. They never got a cent before they died, but after they died the autopsy proved that the asbestos killed them. Again, we have to question the capabilities of some of the physicians.

I have read Hansard for the past 10 years and it is always the same question. What are the capabilities of Dr. Stewart? For those of you who do not know him, Dr. Stewart is the chest disease specialist. Where he gets the word "specialist," I would like to know, because every time a question is asked, we are told that Dr. Stewart is not even a member of the College of Physicians and Surgeons of Ontario. He does not have a licence from the CPSO. During the royal commission hearings, he stated that he started in Elliot Lake after graduating from McGill University. For those of you who are really interested in finding out what Dr. Stewart is, read Saturday Night magazine issued four years ago. I have a copy if anybody wants to look at it.

This man came to the board because he was interested in chest disease. I am interested in a lot of things, but that does not make me an expert or a specialist. Where are the papers? Let him show me the papers to prove that he is a chest disease specialist. He tells my specialist, who has 62 letters behind his name from England, "Dr. Smith, you do not know what you are talking about." I can prove it. This is a guy who graduated from McGill University, practised in Montreal for two years, went to Elliot Lake and then came to work for the board as an industrial chest disease specialist. I have had three specialists.

11:50 a.m.

I would like the committee to find out Dr. Stewart's qualifications, his papers, not his interests. You have to have a licence to be a plumber, but do you not have to have a licence or qualifications to be a chest disease specialist? Come on.

I would like to explain to you about the rehab program we have. We started it in 1976. You have a list in front of you which states that there are 28 at the present time. Somebody asked questions last week about the rehab program. Let me tell you where our people are today.

There are nine out of the 28 who have had some retraining. I hope you can make these figures available to the rehabilitation department

at the Workers' Compensation Board. Eleven of them have never left the house since they came out of the plant; never. All they do is get phone calls from somebody at the board or the rehab office who asks, "How are you doing today?" and "Is everything all right?" I have got two of them to prove that.

Is there a rehabilitation program for the Manville workers? There are eight of them who were cut off. One of them will tell you why he was cut off. So those are the 28 of them who are still left on the rehab program.

I have to explain to you the delay of the appeals procedure. I heard it all last week about the appeals. How long ago did your husband die, Mrs. Barney?

Mrs. Barney: It will be five years ago.

Mr. Cauchi: Five years ago. You are still waiting for the first appeal?

Mrs. Barney: Yes.

Mr. Gordon: Would you run that by me again, Mr. Chairman?

Mr. Chairman: Could you go through that once more, please? What was that point you just raised with this woman—

Mrs. Barney: My husband passed away five years ago.

Mr. Gordon: Yes.

Mrs. Barney: On October 5.

Mr. Gordon: Right.

Mr. Cauchi: We are still waiting for the first appeal.

Mrs. Barney: I am still waiting. I have heard nothing from the Workers' Compensation Board.

Mr. Martel: Have you asked them?

Mrs. Barney: Yes. They said I did not really qualify for it. To this day, I do not know why I was not qualified for the pension.

Mr. Cauchi: Her husband, by the way, died with 20 per cent disability. As soon as he died, what did you get?

Mrs. Barney: Well, the autopsy report told me that his lungs were disintegrated.

Mr. Cauchi: We have the autopsy report.

Mrs. Barney: They had a very hard time removing them.

Mr. Chairman: Is someone assisting you in your attempt to appeal?

Mrs. Barney: It has been done by—

Mr. Cauchi: That is another thing that I am going to discuss. We have to find out; this is a

fact now. I just mentioned to you that there are three classes of the 28 members who are on rehab. We have to find out, and the committee should insist that the WCB hand over all the correspondence between the board and Manville. We cannot get them from Manville because they sent out the communications to Denver, their headquarters. The WCB has a duty to hand over to us all the correspondence between the board and Manville. We tried to get it, but they said all their correspondence went to Denver.

Mr. Martel: But that would be stacked against you anyway, Mr. Cauchi, because with a 20 per cent disability rate, you are going to have to prove that his death was totally as a result of the asbestos. Otherwise the board will not grant you a pension under that policy. How do you prove that?

Mr. Cauchi: We have another—

Mr. Martel: I am with you. I am simply saying that you are going to have tremendous difficulty because they are going to say that it was not solely as a result of this. I guarantee it.

Mr. Cauchi: I might enlighten you today by telling you that we have been very close with the Selikoff group since 1963. I have been involved with the Selikoff group. In fact, two of them do nothing but research in asbestos diseases, and these people are more than willing to come up here to testify on our behalf if the chance is given to prove that the cause of death for these people who died with 10 and 20 per cent disability was the asbestos and nothing else. That is what we are relying on.

Last week when I was listening in here, Mr. Gordon said he had 25 cases sitting on his desk for widows and disabled workers. There are some of them in here who are waiting to be heard. Mr. Gordon already stated that the Workers' Compensation Board lacked the sensitivity to look after the injured workers, to blast through their problem.

All you have to do is read the Dupré report. He said a lot more than that they do not have the sensitivity. He said a lot more because he heard all these widows. I did not want to bring too many here today because some of them are not fit to sit in here. They are too emotional to sit in here and say the same thing over and over again that they have been saying for the past few years.

Another problem we have is assessment. Some of us are assessed once a year. We are assessed regularly, no problem. Some are assessed every two years, some every three years, some die before the next assessment. If you do not believe me, all you have to do is look

at the records from the WCB. They died before they were reassessed because it took too long to reassess them. One guy I took last week was assessed in 1981. He is totally finished.

One thing that I was not surprised to hear last week was when Mr. Gordon said that he attended an appeal hearing and he found out that the adjudicator's mind was already made up. Anybody will tell you that, Mr. Gordon. All the adjudicator has to do is get the doctor's report and do exactly what the doctor tells him. He has no power to change that. There is no way an adjudicator is going to say, "Listen, mister, you are totally disabled. We are going to give you full compensation." No, it is Dr. Stewart. He is the one who says to this guy, "There is no disease."

Gentlemen, I ask every one of you in here: who would like to have cancer so he could collect compensation? Yet that is what they are telling us. "You do not have evidence of lung disease; therefore you do not get any money." If you do not have evidence of cancer or mesothelioma, you do not get any money.

You are crippled, you cannot walk, you cannot sleep, like most of us, but you get nothing for it because in Ontario, and Ontario alone, compensation does not pay for suffering from asbestos dust inhalation. It was asked during the commission hearings if there is such a thing as suffering from asbestos dust inhalation. You know what you get for suffering from asbestos dust inhalation? Nothing.

Another thing we found out—especially myself, during the last nine years that I have been on rehab, and I have been on rehab since 1976—is how the government in Ottawa is involved in this; and advertising in the paper today, too. I got a letter today, "Back a fighter." I would like to see a question asked of many of these rehabilitation officers, some of them call themselves employment specialists. Never, ever was a government job given to an injured worker who is in rehabilitation. The list of government jobs is not advertised through the WCB rehab division.

If the government wants to help the rehab people, why does it not go to the WCB and say, "Here, we have these kinds of jobs available." You are telling the top manager of Manville or General Motors or Inco, "Why do you not hire some of these disabled workers?" Do you know what I would tell you? Why do you not give them a job yourself?

12 noon

I tried for nine years to get a government job. When I forced the issue they said, "You need a psychiatrist." I have proof of that. They said I

need a psychiatrist because I wanted a government job. I want a meaningful job. After nine years without a job, after nine years of suffering from asbestosis, I saw an employment specialist. He came to see me at the house once in nine years.

He said, "Mr. Cauchi, how about a gas station attendant at night?" I went to college for upgrading to get a grade 12 education. I was a group leader making \$18 an hour. After nine years of rehabilitation, I was offered a job as a gas station attendant at night—somebody who cannot breathe and has to spend at least four or five weeks a year in the hospital. All of us have to. I can get someone today from St. Michael's Hospital to speak to you.

We do not have broken legs or arms. We have only one lung and it is finished. We cannot do what we used to do. We have a bunch of good people taking out their frustrations on their wives, their friends and their kids. They are afraid to do anything about it.

You might see me around a lot. I have a lot of time. I would rather come in here than watch the ball game, to tell you the truth. The Jays or the Argos could win any day. It does not put money in my pocket. I do not go to Loblaw's every time I have a Blue Jay ticket. I go to Loblaw's when I receive compensation for my disability. That is what interests me and my fellow workers.

Mr. Chairman: Excuse me for breaking in here but we have a problem. I do not want to restrict your presentation, but you do not seem to be following the brief. What kind of—

Mr. Cauchi: These are comments. You can read the brief.

Mr. Chairman: I am not objecting to that but we have another group to appear before us. If this is going to take some considerable time, then we will start negotiating with the other group for another time. We just need some kind of direction from you as to how long this is going to take.

Mr. Cauchi: I should be finished in 20 minutes.

Mr. Chairman: Some committee members set up appointments and that kind of thing over the lunch hour and the Canadian Manufacturers' Association is here to present a brief as well. That is taking us close to 12:30, which is the normal time of adjournment. Does the committee wish to go ahead? The Canadian Manufacturers' Association has a—

Interjection.

Mr. Chairman: They have a right to appear before the committee and they are scheduled to appear before us. We should make a collective decision as to whether we want to talk to the CMA about rescheduling or whether we want it to go ahead and finish before one o'clock.

Mr. Martel: What do we have this afternoon?

Mr. Chairman: We have three presentations this afternoon as well. Shall we forge ahead and try to finish before one o'clock?

Mr. Barlow: I cannot see us finishing with the CMA by one o'clock if we are going to be another 20 minutes or so with Mr. Cauchi. I wonder if we should not try to negotiate for four delegations this afternoon.

Mr. Chairman: Is there someone here from the CMA who could give us an indication?

Interjection: We are available for another few hours, if necessary.

Mr. Chairman: Would it be acceptable to the committee and to the CMA if we were to break as soon as Mr. Cauchi is finished, around 12:30, and then come back at 1:30 with the CMA? Is that okay for you people?

Interjection: That is acceptable to me.

Mr. Chairman: Okay, thank you very much. Is that okay with the committee? All right. Thank you, Mr. Cauchi. Proceed.

Mr. Cauchi: He just finished saying how well we are going to handle the appeals now. Fortunately, during Dr. Elgie's term as Minister of Labour we received funding for a legal adviser to have representation during the royal commission hearing. We have carried on and used the same legal adviser ever since.

Unfortunately, this man is no longer available since he has gone to work for the appeal board. Therefore, I would suggest to this committee that we need a legal adviser to handle our appeals. We were promised we would have a legal adviser by the previous administration in the board. We are not like the 500 or 600 people who were over there yesterday; there are only about 50 or 60 who still have problems.

You heard the lady explain to you earlier today the frustrations she has had within the last five years to have an appeal hearing. We do not have the money; everybody is on his own. It cost me \$22 to make the copies for you today. We need a legal adviser to handle our appeals, I hope this committee will recommend that we have a legal adviser to handle our appeals.

Most of our people are from the Durham region, but we have quite a few with whom we communicate about once every two months in

northern Ontario, in Matheson, Reeves and Timmins. Johns-Manville Canada has three mines in there. We have communications with them. We also hold meetings with some of our members from the Bendix Corp. in Windsor, but the bulk of our people are in the Durham area, from Scarborough to Newcastle to Port Perry.

I heard the other day that the worker adviser is going to be expanded out of Metro, and I wonder whether the minister will ever consider having a worker adviser in the Oshawa area, since the government has a huge empty building there. We would appreciate it because today most of us had to get up at six o'clock to come here through all the traffic. It is a long way.

There is also a problem with the 800 system, the Zenith system. To try to phone from Oshawa or the surrounding area to the WCB for advice costs money unless you get the 800 number or the Zenith number. Most of the time we cannot.

I also want to go on record—and I hope this will be brought to the attention of the minister, because the same thing was stated yesterday—as saying that we are very disappointed with the appointment of three international union leaders on the corporate board. We see that these people are busy enough in their day-to-day business, and I think the minister could have found someone who is available on a day-to-day basis. These three international union leaders are not going to be available to the corporate board on a day-to-day basis, and that is another excuse for the board to say they could not get together.

We also have a complaint that we are not part of the policy-making group. Why are we excluded from decision-making? They are our lives; it is our money. This is my final question to you, and I hope you find an answer because I tried. I sent this doctor a registered letter, and he would not answer me. You heard Dr. Mitchell answer a question last week on what was the duty of Dr. Gray. Dr. Mitchell's answer was that Dr. Gray is just an advisory committee member.

If Dr. Gray is just an advisory committee member—and I will deal with this on my own later on—how would you like to have a doctor send an intimidating letter to your doctor saying: "You leave Mr. Cauchi alone. Otherwise, the compensation board is going to be mad at you, or the compensation board is not going to be responsible for what you are going to do with Mr. Cauchi"?

The Vice-Chairman: Do you have that letter?

Mr. Cauchi: Yes, sir.

The Vice-Chairman: Do you want to read it into the record?

12:10 p.m.

Mr. Cauchi: As I said, I was at St. Michael's Hospital being examined for three weeks. The doctor examining me was the head of the department of chest medicine, Dr. Peter Thomas. I advised the Workers' Compensation Board that I was being examined so it could get all the details of what was wrong with me. I was being open.

This is from Dr. Gray, MD, Advisory Committee on Occupational Chest Diseases, to Dr. Peter Thomas:

"Re: Mr. Edward Cauchi, claim S10408101.

"A letter has recently been received indicating that you have been seeing Mr. Edward Cauchi as a patient at St. Michael's Hospital.

"The Advisory Committee on Occupational Chest Diseases would like you to know that Mr. Cauchi has been seen for assessment on a regular basis over many years. He has been recognized to have pleural plaques for some time and more recently considered to have minimal asbestosis and he was awarded a 10 per cent disability pension. His pulmonary function tests have been repeated on many occasions and have always fallen within normal limits. Exercise studies have also been carried out with a mild degree of hyperventilation associated with an increase in oxygen...

"The advisory committee is informing you by this letter that the Workers' Compensation Board will not assume any responsibility regarding any invasive tests carried out on Mr. Cauchi or any liability with respect to any complications that might occur if invasive procedures are carried out, without prior approval by the board."

I went to see this guy last week. He put his hands up in the air. This guy has 23 letters in front of his name. He is the chest disease specialist of the occupational health branch on the third floor; he is the chief of pulmonary medicine at St. Michael's Hospital. He puts his hands up in the air and says, "Look what I got from Dr. Gray." What am I going to do next?

Mr. Barlow: What is the date on that letter?

Mr. Cauchi: There is no date on it.

Mr. Barlow: This is current.

Mr. Cauchi: This occurred about a month ago. In fact, I sent him a registered letter the next day, August 26, and I have not got an answer yet.

How could the government or any Labour minister allow such a doctor, working as an adviser to the board, to send this kind of letter? By the way, at the bottom it indicates that he is a member of the advisory committee. At the top it

says, "Workers' Compensation Board." So it is literature from the Workers' Compensation Board used by an advisory committee member.

This guy was on the ropes during the hearings. The first question put to him was, "What is your duty with the board?" I have it right here. He says, "I am just an adviser." "Do you ever deal with asbestos cases?" Second answer, "No."

When he works for the board he deals strictly with asthma patients. When he deals as an adviser on the advisory committee, he deals with asbestos problems, but never for the board. Yet he sent my physician this letter, intimidating him.

Do you see what he said in here? "The advisory committee is informing you by this letter that the Workers' Compensation Board will not assume any responsibility regarding any invasive tests carried out on Mr. Cauchi or any liability with respect to any complications that might occur if invasive procedures are carried out, without prior approval by the board."

I will give you some light on this, too. Maybe there is something to go with this. I have an appeal in front of the College of Physicians and Surgeons of Ontario, because two of the so-called doctors who work for the occupational chest disease clinic, who have been there for over 20 years, have been saying to our people, and to Mr. Cauchi in particular: "You are suffering from asthmatic bronchitis. You are suffering from angina."

Listen to what my specialist had to say:

"Mr. Cauchi has recently provided me a copy of the report of the Advisory Committee on Occupational Chest Diseases with regard to his health status.

"I have followed him for quite a few years now and it is my belief that he has pleural changes due to asbestosis during his work at Johns-Manville. I think the total picture is also consistent with pulmonary asbestosis."

My specialist is saying that to the doctor who says I have asthma. He said, "Eddie Cauchi, to make sure that what I am saying is right, I will send you to another specialist." So he did. He sent me to the Toronto General Hospital. He says further in his letter:

"Your report of February 16, 1983, suggested he had chronic asthmatic bronchitis. The pulmonary function studies done here in late 1984 showed no signs of any obstructive airway disease. In November of 1984 he was referred to Dr. David J. Ross, respirologist." He encloses a copy.

It is a long story from Dr. Ross. He finishes his response by saying:

"I certainly agree that a 10 per cent disability compensation is grossly inadequate, and this piece of information may help us in obtaining a more suitable compensation for him. I will be reassessing him when this test is completed."

I have three specialists in here. I am talking about specialists. Bear in mind that we are not seen by specialists at the occupational health clinic. We are seen by doctors. Some of them graduated in Yugoslavia, in Italy, in Estonia. I saw the head of the department in 1974. He was just a bicycle man. He said, "What is asbestos, Mr. Cauchi?" So I provided him with literature about asbestos. This is the head of the department.

Why? We want this committee to find out from the board. Then again, the board might tell you it is none of our business, because we do not have anything to do with it. That is what Mr. Alexander told me. He said, "We deal at arm's length between the board and the occupational health clinic."

Why has the surveillance program been discontinued for the ex-Johns-Manville workers who do not have a claim? If you had a claim, they will see you, because you have to be reassessed every year or every two years. But if you do not have a claim, you are not called up to be reassessed.

I recall where Dr. Elgie said in Hansard, "All these people and their families," because we had some wives of disabled people who died too, "are going to be re-examined." There were those who were re-examined. The family members were re-examined in Scarborough. That was in the 1970s, and year after year there have been questions and answers in the Legislature, which I am glad to keep for future reference. They say: "We are going to do that. We are going to call all these widows and women, because their husbands brought their dirty clothes in there."

We had two mesothelioma cases. Two women died. One woman died a week after her husband. I tried to get her to appeal, because he was only on 20 per cent compensation, and I wound up at the funeral for her because she died from the same thing.

You have a list there. Is it not frightening to see that out of 324 people who were hired within 10 years, 139 have died during the last 20 years? The royal commission said about 68. Let them talk to me. Let them find the seniority list that I had. You have the list in front of you; between 1964 and 1984, 134 of these people died.

If I have 10 more minutes: we used to send letters to the occupational health branch to examine certain people. During the last five years there has been a change. During a conversation we had with the present chairman of the occupational health branch, he sent us a letter saying, "The chest clinic acts as an agent for the examining physician of the company in providing reports of chest X-ray examinations."

12:20 p.m.

The company. I have not worked there for nine years. What does the company have to do with me? It does not pay anything. Why not send it to me or my physician? I do not want it; I do not know how to read it; nobody knows how to read it. Send it to my physician. Let him know. Thus, the chest clinic does not act in the doctor-patient relationship, which would exist, for example, between an examining physician and the worker. What do they do? Are they going to tell everybody but the patient or his physician?

He goes on to say that under special circumstances, reports may also be sent to third parties where circumstances so warrant. One example is provided by X-ray readings indicating probable or possible pulmonary causes, which are reported to the compensation board. To expedite handling of the separate claims they receive, which such reports often generate, where compensation is not in question reports are not sent to the WCB.

This guy is going to tell you—every two years you go there—how many pillows you use. He is going to make the decision whether he should send the report to the compensation board. If he does not send the report, you are out of luck. You will get a letter saying there is no evidence of chest disease; this means you do not have cancer and therefore you are not going to be compensated.

A recent letter to all retirees and long-term employees said: "The occupational chest disease section provides a regular medical survey consisting of a full-size chest X-ray and pulmonary function test on their employees. This service is provided at the request of the plant physician and, as such, our medical findings are directly reported to the plant physician." Why the plant physician? Why not to the patient's physician or to the worker?

"Our clinic does not, however, have any knowledge of Asbestos Victims of Ontario." This is what he told us when we wrote him the letter. This man is the head of the chest disease clinic of Ontario, but he is not aware of the Asbestos Victims of Ontario. I have dealt with

him since 1974, but after 11 years he is still not aware that there is an Asbestos Victims of Ontario.

If you look at my brief before I am finished, you will see that of all these people who died, only 12 were rated as 100 per cent disabled before their widows got compensation. Yet when they died, they all got compensation because the autopsy reports proved their condition was compensable.

One question you must ask of the board is, "Why are doctors who have retired from the occupational health department still examining the patients?" The doctors who worked there for years but who retired for one reason or another are still the people looking after us. You must ask that question.

Last week, I heard Dr. Darnbrough saying how many asbestos workers were on the program, how many had found employment and what the future of the rehabilitation program was. I would like to ask Mr. Michalchuk to explain to you how long he has been on rehabilitation and why he is not any more.

Mr. Michalchuk: My name is Mike Michalchuk. I was with Manville for 17 years, until they finally told me I had asbestosis. They told me I had inhaled dust and I had to leave my employment there because it would be hard on me. In the meantime, before I retired from Manville, I had bought myself a little mobile home park in Newcastle.

Mr. Chairman: I am sorry; I did not hear that.

Mr. Michalchuk: I bought a little mobile home park in Newcastle in March, and I retired on January 1, 1978. They were paying me for rehabilitation for a few years. More than a year ago, they cut me off; they do not pay me a penny. They say, "There is nothing wrong with you; you just got a little dust." Once, I went to St. Michael's Hospital where a doctor did a biopsy and said, "Yes, Mike, you have asbestosis."

They have not paid me a penny for more than a year. The person who was looking after my case came to my place as if I had killed somebody. He said, "I want a statement of your income." I said: "Fine. I have from my chartered accountant a statement of the year's income and expenses." I gave him my gross income and gross expense figures. He meant to give my gross income figure to the board, not the net income figure. He said, "You make as much money as you used to make at Manville."

I said: "Just a minute. If I were not sick, I would still own that mobile home park and I would still be working today; I would have both

incomes. But I cannot work because if I go where there is dust, I cannot breathe. If I go into a room where there is smoke, I have to walk out; I cannot stand it because it is choking me." He did not say anything; he just ignored me.

I tried to appeal to the board. I waited nine months for my appeal to be heard; and they said, "We agree on gross income."

People live there all year round; it is not a campground. The kids go to school. Each mobile home is assessed like a house for taxes. From that income I have to pay taxes, garbage disposal, snow removal—everything. By the time I pay everything there is hardly anything left.

Another thing: my wife worked with me all the time. Of the income we have left—maybe \$1,500, sometimes \$2,000 or perhaps even nothing—where is her part? She should have half, the same as I have. But he said, "I don't care about your wife." I could not believe it.

Mr. Cauchi: For the benefit of the committee, I would like to ask Mr. Michalchuk how long he has had that place.

Mr. Michalchuk: It will be eight years on March 28.

Mr. Cauchi: How long have you been on rehabilitation?

Mr. Michalchuk: Six and a half years.

Mr. Cauchi: So you had that place before you went on rehab?

Mr. Michalchuk: I worked almost nine months.

Mr. Cauchi: Thank you very much.

Mr. Chairman: Mr. Cauchi, are you going to allow us enough time for committee members to ask you a couple of questions?

Mr. Cauchi: Sure, go ahead; it is all yours.

Mr. Chairman: I am worried that they will not have a chance to ask any questions.

Mr. Cauchi: No, no; that is it.

Mr. Chairman: Okay; we will open it up to committee members.

Mr. Martel: I want to bring forward one proposition. We are not going to sort out anything here, but I think we as a committee might recommend rather strongly on Thursday or Friday, whenever we draft our recommendations, that the board should appoint someone agreeable to this group of people to review all of their cases individually and as a whole as it relates to what they have gone through.

We can raise questions today. I have questions to raise about rehab. Last week, when I was provided a list of the five people who had jobs,

you will recall I was somewhat perplexed when the names on the only five jobs that were being carried were those who had jobs and what happened to the other 23 was not presented to me. I become suspicious when I get that sort of answer. You have five jobs; you do not have the rest.

For us to dig into it individually is going to be almost impossible. This committee should recommend that someone acceptable to this group review all the cases; and perhaps exclude Charlie from any involvement in the ultimate decision.

Mr. Chairman: You mean Chuck.

Mr. Martel: Maybe we will get a chest specialist involved for a change, instead of Chuck. That is what I will advance whenever it comes up. That is why I am not going to go into questions; I do not think we are not going to resolve anything by raising questions. I hope we can get it resolved by having it reviewed.

Mr. Chairman: Mr. Cauchi, as Mr. Martel says, the committee is not going to resolve anything here today. I think you understand that. However, the committee is meeting on Thursday to put forward a summary of the recommendations that have been made to it and then it hopes to come up with some suggestions or recommendations that will go to the compensation board and Ministry of Labour. I cannot prejudge what the committee will recommend, but as Mr. Martel indicates, he wants to press for some recommendations on the asbestos victims' problems.

Do you understand the process we are engaged in here? I know it is difficult. I know it has been a long time.

Mr. Cauchi: There is a hitch to that. I came to this country 35 years ago. I came through the war without a scratch. I left a brother where I came from; he has been in hospital for six months now. I was not allowed to go and see him until last week, and I am going next week. I was not allowed to see him for more than three weeks. I only got confirmation of that about two weeks ago.

How would anybody feel if he had a brother die and he was not allowed to see him? Why was I not allowed to see my brother? "If you are not here we will cut you off." That is what they did last year; I was cut off for three weeks because I went to see my sick brother. I brought the evidence that I was sick myself. Three specialists in Europe said, "This guy is very sick." I was not allowed to travel, yet they cut me off. I won the case; but Dr. Stewart said, "These three people

do not know what they are talking about." I will show you the letters of Dr. Stewart.

Mr. Chairman: I understand.

Mr. Cauchi: I will not be here after tomorrow. I will be back on November 5.

Mr. Chairman: That is no problem. We understand very well what it is that you are after. We have a copy of your brief. The remarks you have made today are on record. You have heard Mr. Martel indicate that he wants to press for some individual attention to the cases by the Workers' Compensation Board after consultation with your group. All right?

Mr. Cauchi: You do not have any idea of the frustration I went through for nine years, after working 25 years for the company without a pension. I travelled all over the United States—

Mr. Michalchuk: They told me, "We did not notice anything wrong with you."

Mr. Cauchi: I was president of the local union. When I found out that people were dying in there, I said, "To hell with the five-cent-an-hour raise." I took the chairman of the safety and health committee and we travelled all over, on my money.

I never wanted a job with any international union, because I do not trust them. I do not hesitate to say that. When you give a guy \$60,000 a year, a free car and a secretary, he is going to ignore the workers in the plant.

Mr. Ramsay: In addition to what Mr. Martel suggested, I would like to propose that we look further into how the board handles the whole matter of service to asbestos victims. We should be looking at the medical competency of the board in this area particularly. There have been some very serious concerns brought up here this morning.

I would also like to have a further explanation given to me as to why the WCB did not jump into the class action suit in America against Manville and why it is that the people of Ontario and other employers are contributing to this.

Mr. Chairman: Vis-à-vis that, we are going to have to call a halt to this thing because we have a heavy schedule this afternoon, and to be fair we have to hear those groups.

I believe Mr. Cain is going to be with us at least for the rest of the week. Dr. Elgie may be here also; I do not know. Perhaps between now and Thursday, when the committee is making its recommendations, Mr. Cain or Dr. Elgie will have a chance to discuss this problem and have some answers to the questions that Mr. Ramsay has just posed, which I think are serious and legitimate.

We now stand recessed until 1:30 p.m., when we meet with the Canadian Manufacturers' Association.

The committee recessed at 12:34 p.m.

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Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament

Tuesday, October 8, 1985

Afternoon Sitting

Speaker: Honourable H. A. Edighoffer

Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, October 8, 1985

The committee resumed at 1:38 p.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984 (continued)

Mr. Chairman: The committee will come to order, since I see a quorum. We have with us this afternoon the Canadian Manufacturers' Association. Mr. Hiseler, perhaps you could introduce those people who are with you and proceed.

CANADIAN MANUFACTURERS' ASSOCIATION, ONTARIO DIVISION

Mr. Hiseler: I would be very happy to. On my left is Wayne Mahoney, supervisor of loss control with Livingston International Inc. in Tillsonburg. On my right is Ron Franceschini, who is the salary services manager with Stelco Inc. in Hamilton. I am Stan Hiseler, general manager at the John Deere Welland works in Welland. Ron and I are co-chairmen of the CMA committee on workers' compensation; so I may be leaning on him for answers, as well as on Mr. Mahoney.

Let me start by saying that the CMA Ontario division welcomes this opportunity, afforded for the first time to the public, to participate in the hearings on the annual report of the Workers' Compensation Board. We would also like to mention that CMA is a part of the Employers' Council on Workers' Compensation, which you heard this morning, and that we support the comments made by the ECWC in its presentation. We hope here simply to add a little additional perspective from the viewpoint of manufacturers.

From CMA's long-standing involvement with workers' compensation and the issues, we are aware that attempting to administer the workers' compensation system equitably in such a large and industrially diverse province as Ontario is a singularly difficult task. It should be emphasized that the CMA Ontario division fully supports the basic principles of workers' compensation; that is, to reimburse an employee for loss of income resulting from an occupational injury or illness. Indeed, the CMA was instrumental in helping to set up the system many years ago.

You will note in this submission, as with the ECWC submission this morning, there is no specific section on occupational health and safety, accident prevention or those kinds of issues. I do not want it to be construed that we do not have an interest in that. The CMA has another committee on occupational health and safety separate from this workers' compensation committee. What you may detect from time to time in this submission is perhaps a sense of frustration on the part of some employers.

Before I get into that, the comments this morning indicated extremely well the tremendous divergence or spread between employers who are doing perhaps less than they should about accident prevention and employers who have excellent long-term, strong, active, successful accident prevention programs. There may be a sense of frustration from time to time in this submission from those employers who have had those successful programs in place for a long time but do not see much evidence in their costs to reward them for those kinds of successful programs.

As we review the 1984 Workers' Compensation Board annual report, we must reassess the need to maintain balance between adequate compensation for workers and controlling costs. The 1984 annual report shows this balance has been impaired seriously by costs escalating out of control and exceeding what can be reasonably justified as adequate loss of income protection. The resulting imbalance has a negative impact on both employer and employee alike, for without effective control of compensation costs, industry's ability to create new jobs is diminished substantially.

Compensation costs are part of employment costs, but often the public is unaware of their impact. Moreover, due to increased international competition, few manufacturers are in a position to pass on to the consumer even a part of this tremendous cost increase. To the extent that employers must absorb ever-higher compensation costs, their scope for growth and job creation is reduced. As I told you, I am in the farm implement business, and I can assure you I am very much aware of what is in this paragraph.

In our presentation, you will find an example or two where we do not have specific recommen-

dations for specific cost reductions, but rather suggestions for where investigation might have some potential for cost-saving measures. That is simply the way we approach an awful lot of our business, each one of us.

Looking first at the balance I mentioned, we note that while the 1984 payroll upon which assessment revenue was based rose by only about 16 per cent, the total benefits paid in 1984 increased by more than 24 per cent. Although the board raised more than \$1 billion in revenue in 1984, up 34 per cent from 1983, the unfunded liability continues to grow dramatically.

In addressing that unfunded liability, Ontario manufacturers are particularly alarmed to see that a full provision for future cost-of-living increases through expected legislative amendments would add another \$2.7 billion to the already large unfunded liability of \$2.7 billion, bringing the total unfunded liability to a staggering \$5.4 billion. From 1983 to 1984, the unfunded liability rose by almost 34 per cent.

Even if the unfunded liability could be repaid over the next 30 years at a real annual cost of \$96 per worker, as is stated in the report, we have to ask the question: Can Ontario industry afford this tremendous increase, which has gone from \$404 million in 1979 to \$2.7 billion in 1984, an increase of more than 600 per cent? This liability will continue to grow as legislative increases are granted without regard for more reasonable limits on compensation benefits.

We recommend that the new corporate board establish a plan for funding the unfunded liability based on solid business principles and determine guidelines to restrain benefit increases to more reasonable levels.

The total \$1.75 billion in benefits paid in 1984 includes medical aid, pensions and legislative amendments. We will talk about each one separately.

First, medical aid; that increased by about 16 per cent from 1983 to 1984. As a means of reducing medical aid costs, we suggest the board consider whether occupational injuries involving medical aid only should be paid by the Ontario health insurance plan rather than by workers' compensation, as is now the case. Furthermore, OHIP would seem to be better equipped administratively to deal efficiently with medical aid paperwork than is the board.

Let us go on to pensions. The annual report states that new permanent disability pensions awarded to workers during 1984 increased by more than 17 per cent from 1983. The report also says the increase in new permanent disability

awards is the major source of the increased utilization of the Ontario workers' compensation system. Manufacturers therefore ask the board to determine why permanent disability pensions have increased by 17 per cent in one year, particularly in the light of the fact that such pensions represent a permanent locking in of those higher costs.

Legislative amendments increased by 74 per cent from 1983 to 1984 for current and future increases. Employers urge legislators that when making legislative increases, they give due consideration to employers' ability to pay and to the ultimate impact of such increases on Ontario's industry and work force.

That is the thing we have to keep coming through with. I know we may be accused from time to time of being concerned only about cost, but as a province, we do have to address the business of international competitiveness. Nobody is opposed to the social benefits that people need and should have. What we have to do is figure out a way to get those things to the people who need them in a way that does not impair our international competitiveness.

Let us look at the impact of increased costs on employers. Assessment rates are the bottom line of costs. The average assessment rate increased by 15 per cent from 1983 to 1984. In contrast, the consumer price index rose by only 4.4 per cent in that same time. We also point out that the term "average assessment rate" does not completely reflect the true impact of rate increases on industry. Assessment rates in 1984 varied from 28 cents per \$100 of payroll for accountants and architects to more than \$25 per \$100 of payroll for mining contractors. The average rates are weighted heavily by the large white-collar groups having the lowest rates.

In assessing the impact of rate increases, we suggest it is more realistic to focus on the impact that increases have on those rate groups having rates above \$3 where an increase in costs represents a significant increase in the payroll costs. For example, in an industry where workers' compensation assessments represent seven per cent of an employer's payroll, that employer could be paying as much for workers' compensation as for all of its other group insurance and pension benefits combined.

Concerning the assessable payroll ceiling, the 1983 ceiling of \$22,200 was raised to \$25,500 for 1984, an increase of approximately 15 per cent. For an industry whose employees earn that maximum ceiling, and using the average assessment rates, the average cost of workers' compen-

sation per employee in Ontario rose by almost 33 per cent from 1983 to 1984. In contrast, the CPI increased by only 4.4 per cent during the same time. We also point out that from 1975 to 1984, a 10-year period, the average cost per employee rose from \$195 to \$553, an increase of 184 per cent. In that same 10-year period, the CPI rose by 109 per cent and the average industrial wage by 129 per cent.

Another concern is new claims. While the number of new claims for 1984 is up by about 13 per cent from 1983, since 1977 there has been an overall trend—you saw that curve this morning—of a constant decrease in new claims per year. Despite the overall decrease in the number of new claims during the period from 1977 to 1983, overall costs continued to rise. Considering that costs climbed from 1977 to 1983 while the number of claims decreased, the 13 per cent increase in new claims in 1984 can only serve to drive up costs even higher.

1:50 p.m.

Even with an increase in employment, employers ask what other factors may be contributing to a sudden increase in claims in one year, particularly when employers are increasingly investing in safety devices and equipment to eliminate or reduce heavy lifting and handling in the work place. Despite such capital investment, back injuries constitute a major proportion—27 per cent—of all injuries, and sprains and strains comprise 46 per cent of total claims.

Moreover, employers are often, or at least frequently enough to raise questions, seeing little evidence linking the injury to the work place other than the fact that the pain was first noticed during the course of employment, or perhaps not even first noticed but simply noticed during the course of employment. That is to say that the nature of the injury is often equally if not more consistent with causes other than those found in the work place. As employers provide more safety equipment in the work place, the role of non-work-place causation becomes increasingly relevant.

It is in the best interests of all concerned parties—the Workers' Compensation Board, the employer, the employee and society in general—to learn as much as possible about the causation and prevention of injury or illness that can harm the health and reduce the working life of the employee.

We therefore recommend that the board initiate a scientific medical study to determine the causation and prevention of back injuries and strains and sprains. I see the member for Sudbury

East (Mr. Martel) smiling at that one. I will bet he has heard that one before. We recognize that all kinds of investigations have been made by individual companies and so on, but there is still a need.

Mr. Martel: I think it is a valid recommendation.

Mr. Hiseler: We also recommend that the board provide a clearer definition of work place accident and illness, along with interpretive guidelines. In providing such guidance, the board should give due consideration to a fair means of establishing the extent to which injuries are work-related or are caused or intensified by non-work-place factors such as lifestyle, congenital disease and the simple effects of ageing, which unfortunately we are all prone to.

Let me turn to the persistency issue. Persistency rates deteriorated—that is, they increased—during the recession years. The average duration on a claim today remains at the recession-years level of approximately 10 weeks, or double the 1975 rate of just less than five weeks. All employers are deeply concerned about increasing persistency rates and ask the WCB to review this situation as soon as possible to determine the true causes of increasing average claim duration and to establish the necessary checks and balances to reverse this trend. We also suggest that persistency rates be published in the WCB annual report, because we think they are an important factor in the cost picture.

Along the same line, what we would like to see in the WCB annual report is a 10-year statistical record. Each year the report provides a financial picture based on a two-year comparison only. This can create an incomplete picture, as shown by this year's figures on new claims, which we referred to earlier, because it did not show that new claims had steadily decreased from 1977 to 1983. A much more meaningful and complete comparison showing trends and anomalies would be provided if the report covered the previous 10-year period. A lot of us are used to seeing that in annual reports. So we recommend that the board include a 10-year statistical record in its annual report.

On the issue of experience rating, employers view the experience rating program as a positive development, as it fairly allocates costs among employers according to their safety performance record. Most employers, at least the two thirds with better than average experience, look forward to the introduction of an experience rating plan in their industry. We therefore urge the board to implement the experience rating system

as soon as possible for those employers who agree to participate.

Where do we go from here? Having discussed the concerns of many employers in connection with the annual report, along with some recommendations, we would like to say a few words about the instrument for dealing with those concerns; that is, the new corporate board. No other employee benefit program that is fully funded by the employer has had as little employer involvement as has had workers' compensation.

Up until now, with the establishment of the new board, an employer has had no say in the design, funding, investment or administration of the board. With the new corporate board structure, which includes representatives of industry and labour, employers will now have the opportunity to ensure that due attention is paid to cost control in the equitable administration of the Ontario workers' compensation system.

Major decisions, such as the issue of free funding, can now be dealt with by the new corporate boards, which can study it in relation to other possible options. In any case, as indicated by the spiralling costs of the Workers' Compensation Board, it is essential that employers' input into the system be more than simply providing funds. The compensation cost control balance can be restored to the Workers' Compensation Board and its integrity as a system to compensate work-related injuries can be maintained only through responsible attention to costs and case adjudication.

Mr. Chairman, on behalf of the members of the delegation from the Canadian Manufacturers' Association, I would like to thank you for your interest in our concerns and welcome opportunities for further discussion of anything.

Mr. Chairman: Thank you, Mr. Hiseler. I have only one question. It has to do with the numbers you put in your brief, which describe the enormous difference in assessments: 28 cents for an architectural firm per \$100 of payroll versus more than \$25 for a mining contractor.

Mr. Hiseler: Yes, sir.

Mr. Chairman: Does the CMA feel it would prefer to go to experience rating, which would make it even more directly applicable to heavy industry since \$25 per \$100 of payroll to the mining contractor is a substantial portion—more than 25 per cent of his payroll—while 28 cents to the architectural or financial firm is not a substantial portion of its payroll? It is 0.28 per cent versus 25 per cent? In other words, the contractor might end up paying 30 per cent or 35

per cent next year. Who knows? It would depend on safety.

Mr. Hiseler: I am going to respond to that question in a way which I hope will reflect the position of most CMA members; it is certainly my own position. It is part of what I referred to earlier.

There is a need for all of us—I do not mean just the CMA interest or the worker—to figure out ways to provide incentives for people to do what has to be done to prevent accidents. I think the best way—at least I am convinced it is the best way—is to provide financial incentives.

I might be a mining contractor or a mining firm paying \$25; and it may go to \$30. However, when it does, somebody—the corporate controller, the board of directors or perhaps the shareholders at an annual meeting—will ask: "Why are those costs so high? The neighbouring mining company a few miles down the road is only paying only \$22 or \$18 or whatever. What is wrong with us?"

That is the kind of pressure that is appearing. In the architectural firm, the average might be 28 cents. However, your architectural firm may be paying 18 cents while mine is paying 35 cents. It will not be long before my boss wants to know why I am paying 35 cents.

It is the experience rating that really does the job. It will raise those questions and get the kind of strong, aggressive, successful safety programs that will reduce the cost. The offenders are going to be the ones that pay while we are getting there.

Mr. Martel: That is too bad because it worries me. As you know, mining and construction are not quite like banking. Is there a possibility of doing it on two levels as opposed to enforcing a penalty?

The unknown is always there in mining. There can be a rock burst regardless of what precautions are taken by management. We do not understand how it happens. I think part of the problem in contract mining comes from the speed with which they try to sink a shaft or something like that.

There are inherent dangers in certain occupations which are not there in others. If you rely solely on experience rating—and this is what I am driving at—then those in certain industries, where there are risks that none of us know about, could be the safest companies in the world but still have a far different assessment. It is preposterous. I think you know what I am driving at.

Mr. Hiseler: Yes.

Mr. Martel: Is there a way of looking at that a little finer other than just experience rating?

2 p.m.

Mr. Hiseler: Let me address that from two standpoints, if I may. First, I still think the area of industry or whatever is the source of the accidents, and therefore of the costs to support the employee, should pay. It should not be spread over society. We should know the cost of mining is thus and so. Let us not mask it by pushing some of the cost on to architects or whomever. I still think we really need to know our costs in each of these fields.

Mr. Chairman: You would apply that same rule to the public sector as well, would you not? You do not want to disguise the costs by having the public sector pick up some of the costs, do you?

Mr. Hiseler: No, I am not suggesting that at all. For the purpose of brevity, we have talked about experience ratings only as though it is totally that. The different schemes proposed or being tried by some industry associations or rate groups are, in fact, a modified experience rating plan and not a total, true experience rating plan.

I think there are very definitely ways to phase it in, ways for us to minimize the burden that might be imposed on an individual company if it suddenly had to live with full experience rating. There are various ways to do that, but I still think the goal should be ultimately to get to a full true experience rating.

Mr. Martel: I was interested when you said you had two committees, or that Chrysler did. Is that part of our problem? Have we been studying WCB in isolation from a comprehensive look at what is happening in the occupational health and safety field and really not realizing savings are not going to come in a hurry? Are the cost factors being dealt with in isolation?

I hear resistance to change. For example, if one has an expensive piece of equipment for ventilation, one avoids maybe introducing that piece of equipment until financial times are better. I worry about that because, as I said this morning when you were here, we are dealing with these two things in isolation from one another. It is not for me to tell Canadian manufacturers what they should do, but I fear we deal in isolation with both of them.

Mr. Hiseler: Let me respond to that one again in a couple of ways. Some would see a CMA standpoint because we are a CMA delegation. But I think it might give you an additional understanding if I addressed it from the companies' standpoint too.

First, from CMA's standpoint, the combined committee felt the cost element of the workers' compensation thing began to take too much time and too much investigation. They felt the occupational safety and health aspect still needed all the attention it had been getting and the only way to deal with both of them appropriately was to separate them.

It just got to be too much for one committee to handle. I do not think there is any lack of tying together within the minds of any of the committee members, and I certainly invite Wayne and Ron to respond there. I think it is well tied together, as it is within the individual factory.

Mr. Franceschini: If I may, Mr. Martel, one of the problems we had with respect to the committee was that some of us did not deal with occupational health and safety in the everyday work field; Mr. Mahoney does. Probably 50 per cent of the members on the WCB committee attend and want to attend the occupational health and safety meetings also, so there is a cross-purpose.

However, it is such a complex area. I read some of those during the first meeting when we broke it apart. It is a vast area. It is just incredible to me to try to understand it. One has to spend literally full time at it. I am not denigrating it, but I think it is a very large area to bring together. It was really difficult to do it.

Mr. Mahoney: If I may respond to that also, I guess because I deal with both issues, the workers' compensation and occupational health and safety, it is very time-consuming, as has been pointed out. They have become separated because they are two different issues in many cases. Yet many of us in the industry are dealing with them on a daily basis. Both of them are intermingled, but at the committee level we have separated them to sort out some of the various problems with each segment of that group. There is a great interrelation between the two, workers' compensation and occupational health and safety.

Mr. Martel: Can I make one other point before I conclude? I have to confess that the advertisements the Industrial Accident Prevention Association produce make my blood curdle, because they portray the workers as dumb slobs all the time. I really find them offensive. I am not trying to get at anybody, but I find them offensive. The most heinous one was the one on asbestos, but aside from that, I watched one last night in which two workers were on two stepladders and one of them was going to fall on his head and the ladder was going to fall on him.

Another that is used frequently is this wall out in the middle of the field. Somebody is climbing a ladder and some dumb worker does not lean the ladder appropriately. Then there is the one where the child is saying to the daddy, "Are you going to come home tonight safely?" and the man runs out and immediately gets run over by a truck.

I find them offensive because they portray the working class as being irresponsible, stupid and really the architects of their own problems. I know what you are trying to drive at. People have to work safely. But surely there has to be a much more sensitive way than making working people appear as being just a dumb bunch.

Mr. Hiseler: I would certainly concur with your thoughts there. I am sure you realize the IAPA is funded by the Workers' Compensation Board. I do not think I am the appropriate one to try to defend the IAPA. I think perhaps others could do a better job of that.

Mr. Mahoney: May I respond to that? I am a representative employer, but I do become active with the IAPA through our section. I agree with you that some of those advertisements are downgrading to a worker. I guess that is one of the problems that I have with workers. The Occupational Health and Safety Act does outline certain responsibilities for the worker, but the Workers' Compensation Act does not outline any responsibilities at all for the worker.

That dumb worker, as you have mentioned, can be that dumb worker and we employers will still pay for his foolish errors, even though we have taken every precaution.

Mr. Martel: Sure, but have you ever shown one where the boss sent a guy to do something that was unsafe in an advertisement saying, "He does not have to do that"? What is irritating to me is that it is always the worker who is at fault. That is what is portrayed in every single solitary advertisement.

I am not saying there are not some cases. I have sat in arbitration where I have ruled against the worker because he was careless. In fact, the chairman of that one particular arbitration was none other than Paul Weiler and I sided with Mr. Weiler on it.

But it is not always the dumb worker, and that is what worries me. The impression I am always left with is that it is the worker's fault. I am sure you agree it is not always and only the worker. That is the only point I am trying to make. It conveys the impression that workers are really a stupid bunch. They are totally irresponsible, and that really grabs me. There must be a way of advertising work safety without the impression

being left that it is always a dumb worker at fault. That is all I am driving at.

2:10 p.m.

We have to try to run these advertisements to get workers and management to think in terms of safety, and one of them should not be pointed out as the culprit. I would hope you people might do something about it. We have been saying this to the Workers' Compensation Board for as many years as I have been here, unsuccessfully to this time, in order to get it to change just slightly.

Mr. Hiseler: One comment that might be of some encouragement to you is that some headway is being made in industry—more in the past few years than there has been for many years—in getting together more of an approach to problems rather than pointing fingers at one or the other. I agree with your comments about the advertising. However, it does not necessarily reflect the lack of a common approach to problems that are occurring more and more often, which, by the way, tend to make us more competitive in Ontario.

Mr. Ramsay: I congratulate Mr. Hiseler on a good and well-presented report. I found it more balanced than the one this morning; you did have some safety concerns. I applaud your appeal to the board to do some studies on back-related injuries, sprains and those sorts of things. It sounds simple. However, I think there could still be a lot of research done on that. I applaud your efforts in doing that.

On page 4, you have written about restraining benefits to more reasonable levels. I have not had any people come into my office to say they are getting rich from the system. I do not mean to be facetious. However, I am not sure what we can do about that. I am finding that it is very tough to live on any of the pensions I have seen or benefits that people have derived from WCB. It is very difficult for people to live on them. I am not sure what the answer to that is in the short run.

Also on page 5, you have written about permanent disability pensions. You are asking the board why there are so many, especially with the increase that occurred last year. I can attempt to answer that question from what I have seen so far from being on this committee and working with cases.

I feel that manufacturers—employers in general—are going to have to concentrate more on trying to make a place for injured employees, to try to bring them back in the work force. On the other hand, as the employers that are being assessed a lot of money by the WCB, you should put pressure on the WCB to put more into

rehabilitation. That is where we are going to have to put a lot of our resources.

As I have said many times these last couple of weeks, it has to be rehabilitation, not giving bigger cheques to people. We want to get them back to work. It would be in your best interest and in everyone's best interest. That is where we have to push the board. You have more clout than anybody because, in a way, you are paying the bill. That is where I think it should be.

This morning the speaker was talking about how the system was driven politically. Perhaps that is where you, with us, will have to do some more lobbying, so we can put some clout on the board. That is a direction in which we should be going.

There is something that concerns me on page 9. You have written about examining work-related accidents and the definition of such more closely and looking at the intensification of other non-work-related activities or factors, such as lifestyle or congenital factors.

I have a concern there. I have gone into many cases where there were supposedly healthy workers on the job. The worker has had a back injury. Upon examination, there is perhaps a slight bit of spina bifida near the site of the injury—this sort of thing. This has intensified it. However, he was fine before the accident.

What do we do for an injured worker in that case if he becomes very disabled when we assess the supposed injury or disablement that was caused by the work injury alone? He may now be 60 per cent disabled. However, it is perhaps determined it was only 30 per cent caused by the accident. He was 100 per cent before. Perhaps it would have turned up down the road; or maybe never.

There are problems, and I understand that you may see that as being unfair from your point of view. It seems very unfair to a person when I deal with him, and he seems to be almost crippled, that he should suffer now because there is something bothering him that was there from day one, when he was fine and earning a living for his family.

Mr. Hiseler: I agree wholeheartedly. We see those things from time to time. I think you will recognize there are problems that none of us quite knows how to deal with. There needs to be a way for that individual to live as whole and self-respecting a life as he possibly can. Unfortunately, with all of our systems, and workers' compensation is just one of them—we have within our companies our own drug and benefit plans

and so on—we have people who fall in the cracks one way or another.

We are talking about those situations in the other direction. Perhaps hearing loss is as good an example as any, where we determine an individual has less than average hearing.

We do not know what he had 20 years ago, so first, we do not know if it is a loss. Even if it is, we look only at the eight hours he has put in on each of 200 days a year in a factory and ignore the other 16 hours a day, and the other 165 days in a year—24 hours a day of those—where he has been running chain saws, riding motorcycles or snowmobiles, or playing in a rock band. We do not really take into account the effects of those things.

I am not throwing that out as an argument. I agree with what you are saying. There are people who have that kind of problem, but on the other hand there are those situations where industry gets slapped with the whole thing, and we think unfairly.

Mr. Martel: You are moving closer to us all the time. There is this whole range of plans out there and none of them is adequate.

Mr. Hiseler: They are not as adequate for each individual as—

Mr. Martel: I make a prediction. Within 15 years, industry and labour will get together and say we have to get rid of that whole pile of stupid programs and move to one, with a fair assessment against society for caring for them—one program in the insurance industry, for automobiles and so forth. I guarantee it.

Mr. Hiseler: If I could respond to that one with a phrase I picked up many years ago from a very knowledgeable man with whom I worked. He said, "You show me the system and I will show the inequities." We may get there, but I will still show the inequities.

Mr. Martel: There are some.

Mr. Mahoney: I have a comment with respect to Mr. Ramsay with the permanent disability pensions awarded that sometimes do not reflect the total disability a worker has had. Through an employer's eyes, in some cases, we have permanent disability pensions awarded and accept that fact, and the employee goes through a rehabilitation process, then is located in alternative employment.

In some cases, I have seen workers relocated in alternative employment beyond those very restrictions imposed by the former employer. Unless we get a meaningful system as far as permanent disability pensions are concerned, we

are going to have many disagreements in that type of a system.

Mr. Chairman: Any further questions? If not, I would like to thank you not only for appearing before the committee but also for being so flexible and patient in shifting your schedule from this morning to this afternoon. The committee appreciates that.

The next organization to appear before us is the Council of Ontario Contractors Associations. You have their brief. It is exhibit 11. Perhaps you could introduce yourselves. We know Mr. Elgie will have considerable clout since his father is now chairman of the compensation board.

Dr. R. G. Elgie: Do you want to clarify that?

Mr. Martel: It is not your fault.

2:20 p.m.

COUNCIL OF ONTARIO CONTRACTORS ASSOCIATIONS

Mr. M. Elgie: I would like to thank you very much for this opportunity to appear before the committee today. At this time, I would like to introduce the members of the panel here with me.

On my left is Cliff Bulmer, secretary of the Council of Ontario Contractors Associations, who has been involved in the ongoing work of trying to derive a fair and equitable workers' compensation system for a great many years, as sort of the driving force behind the council. We have had a variety of chairmen come and go as we came along, but he has been here a long time. I very much appreciate his support in being here with me today.

On my right is Joe Keyes, director of personnel with Pigott Construction Ltd. Joe was also a member of the COCA workers' compensation committee and is directly involved with workers' compensation within his own firm. He brings to the committee a good deal of expertise and we value his input as well.

My name is Murray Elgie and I am the chairman of the COCA workers' compensation committee. I also spend a little bit of time at Reed Stenhouse as a vice-president trying to sort out the woes of the insurance industry at present. They are not dissimilar to the ones we are talking about here today.

With respect to the comments about my—I am not sure—relative or the chairman of the board we have over there, a couple of weeks ago I was going home on a Friday evening and I turned on the late news. I heard the announcement that Mr. Elgie had been made chairman of the Workers' Compensation Board. I was quite pleased, but

then they said it was Dr. Robert Elgie. I said, "Darn, they got my first name wrong again."

Dr. R. G. Elgie: You can have it, for all it is worth.

Mr. M. Elgie: Regardless of the frivolity, we would like to compliment the board on the appointment of Dr. Elgie as chairman. We feel that he will be a valuable asset to the board.

Besides being a medical doctor, Dr. Elgie also has a legal background, which are two of the main problems that face the board from time to time. Along with that, we also have dealt with Dr. Elgie for a good number of years in various ministries and know him to have a business approach to things. We feel one area that does need some beefing up is the business-like approach to matters at the Workers' Compensation Board. The council looks forward to continuing to work with the board, as we have in the past, and also with this committee.

COCA comprises 24 trade associations and 16 mixed construction associations whose members employ at peak periods some 300,000 persons directly or indirectly in the construction industry in this province. COCA is a member of the Employers' Council on Workers' Compensation, which comprises some 20-plus employer association groups who have voluntarily formed a coalition to deal with all aspects of workers' compensation.

We have been involved in the employers' council since its inception. We know they were here earlier today. Although we were not a member of the committee that presented the brief, we did have some input into it and we support wholeheartedly the recommendations that were put forward by the employers' council.

We feel the construction industry has some peculiarities of its own, and that is the reason we are here today on our own to lend support to the employers' council and put forward a couple of points of our own.

The members of this council understand and accept that the workers' compensation concept is a good one. It is generally well-administered, with a reduction in the adversarial approach between employer and employees so prevalent in other jurisdictions. We cannot do without workers' compensation; there is no question about that. As employers, we have both a moral and a financial obligation to look after our employees. Our employees are members of the public so we do have that obligation, and the workers' compensation system that we have now is a good system.

We have cast a lot of aspersions at it over the years and we tend to concentrate on the problems, the difficult claims and the ones we have had problems with. However, if you take a look at the almost 400,000 claims that are processed through that board in any given year, the number of actual problem claims is relatively small. I would like to go on record at this time as saying that the board is doing a relatively good job with the vast majority of claims. We are here to address the few problems.

Our last appearance before your committee was July 31 when we submitted a brief on Bill 101, An Act to amend the Workers' Compensation Act. Many of the points raised in that brief are still unresolved and will be addressed in this submission.

Assessment rates for construction employers are substantially higher than the average rate paid by other employers in the province, and any changes that increase these costs have a substantial impact on our competitive ability vis-à-vis the other jurisdictions.

We thank you for the opportunity to present our views and concerns with respect to workers' compensation.

On the next page you have a list of all the member associations and the trade contractors' associations, which I will not go into in detail. Needless to say, we represent a good-sized constituency.

Next is the area in the board's report headed, "Statement of Income, Expenses and Unfunded Liability, Schedule 1, Accident Fund." We note that for the year under review there is an excess of expense over income of \$685 million, almost \$88 million more than the excess of expense over income in fiscal year 1983. The unfunded liability increased during the year by almost \$700 million, to a total of \$2.7 billion. If full provision had been made in the statement for legislative amendments or indexing, the unfunded liability would be double that amount, or \$5.4 billion.

A little over three years ago—to be precise, on September 8, 1982—representatives of our council appeared before the standing committee on resources development and pointed out the seriousness of the unfunded liability at that time. It has continued to grow.

We have been coming before the board and the committee for a good number of years. We have been bringing the same message, every year: basically, that we are concerned about the cost of the system and we are concerned about the growth in the liability that is being passed on to

future generations. We feel it is a very important subject and one that cannot be ignored.

At the same time, we would like to draw your attention to the attached chart that shows the frequency for our industry from 1976 through 1984 inclusive. This graph speaks for itself. The construction industry in Ontario has worked hard, is working hard and will continue to work hard at safety on the job site. Any accident, no matter how minor, is obviously a cause for concern. While we can be proud of the figures, we are certainly not satisfied and we will continue to work hard to bring this frequency even lower in future years.

Mr. Chairman: I have a question of clarification. While you say the chart is self-explanatory and that it speaks for itself, it does not speak to me.

The construction industry's injury frequency—it does not tie it to something. Is that number of hours worked per—

Mr. M. Elgie: That is the number of lost-time injuries per million man-hours worked.

Mr. Martel: That is why I asked the member for Timiskaming (Mr. Ramsay) if he understood where we were going. I do not know how we would relate it because construction has been in a bit of a slump; a terrible slump, I guess.

Mr. M. Elgie: This is the number of lost-time injuries per million man-hours worked. It is a ratio and it does reflect the increases and decreases in volumes. It is, in effect, the speed at which the construction industry is having lost-time accidents. When you relate it to speed, it does not matter whether you are driving a Volkswagen or a bus. If you are going 50 miles an hour, you are still going 50 miles an hour.

2:30 p.m.

As you can see, although the increase has not been huge, it has been relatively steady. It has dropped from about 53 in 1976 to about 47 in 1984, a significant percentage decrease when you relate the effort required to lower the frequency by any significant amount, as Mr. Martel elaborated on so eloquently during the last presentation.

There are certain hazardous occupations such as mining. Construction falls very much within that category. You have situations such as high-rise construction, bridge work or a number of other activities where you are working with dreadful hazards at all times and there is a limited amount you can do in the way of safety appliances, safety nets, lanyards, hard hats and

safety boots. All the equipment that can be given to an individual is available. It is there to be used.

We come back to the problem of the individual and management. It is indeed a twofold problem. There are two ways of attacking it. The most effective way to get the message out to the most workers, we have found, is through the commercials we are talking about. The sole objective is to get that message across.

We have another method of getting the message across to management. In the construction industry, that is experience rating. We have had a very aggressive experience rating plan in effect for the last two years with the construction industry and I am proud to say we are one of the frontrunners in bringing into the workers' compensation system a stronger experience rating program. We have found that a very effective method of communicating with management.

The possibility of getting a 30 or 40 per cent rebate on their workers' compensation assessment gives them some incentive to go out and buy the lanyards and safety nets and hard hats and spend the time with their employees to create the safe environment that is going to get them their return. One contractor has told me he could take more profit out of a job site by having an accident-free job than he could get in the markup on the project in a competitive tender process.

By the same token, it is a double-edged sword. There are tremendous penalties for contractors who do not choose to take advantage of the safety appliances and means available to them and who go about their work leaving a path of destruction across the countryside. They are going to pay for it and those contractors are not going to be in business much longer. It is as plain and simple as that.

Mr. Martel: Would you think, as I suggested, that one such ad would be nice to counterbalance where somebody is raking that pile up? With hazardous conditions across the province, it would balance the books just a little.

Mr. M. Elgie: We tend to be silent but walk with a big stick when we are talking to the employers. We feel that is a much more effective method of approaching this and I feel we are achieving success in the construction industry. We look forward to continuing to work with the board and also with the Ministry of Labour to develop and refine that as we go along.

We have had a two-year trial period and we are entering the third, fourth and fifth years of refining it. We are making some changes in the experience rating program this year to eliminate some of the inequities. In a new plan, some

inequities always tend to show up, but we are addressing that and it is going to be a fair plan.

I have advocated, in all the years I have been involved in workers' compensation, that it should be a user-pay system. That brings it an awful lot closer, but you still have catastrophe insurance. If that rockfall you are talking about wipes out a whole crew, there is a cap on the cost that will go into the experience rating program, so that one incident will not put the employer out of business. We are addressing those areas you have raised.

I would like to draw your attention to the next graph, which is based on rate 854, one of the most widely used construction rates. Others are comparable. This graph shows clearly that from 1978 to 1986 the effective rates have risen by almost 340 per cent. In 1978, it cost \$832 to provide workers' compensation coverage for an employee. In 1986, it will cost \$2,700. In simple terms, an annual premium of more than \$2,700 per employee for accident insurance is three times the price paid in 1978. The graph highlights that, and I do not think I have to elaborate.

You can see where we have concern in the construction industry, because we are not one of the rate groups paying 28 cents per \$100 for workers' compensation. We are not up to \$25 per \$100 yet either, but we are halfway there and we are very concerned about our costs.

Mr. Martel: Are the mining contractors in with you people?

Mr. M. Elgie: No. They have an association of their own.

Mr. Martel: They are the ones who sit the highest, I guess.

Mr. M. Elgie: That and demolition are the two highest.

The two previous graphs have brought out the point we want to address now. There is an obvious problem because our frequency in the construction industry has come down but our costs have continued to skyrocket.

The graph and figures attached show the average days' duration of claims from 1976 through 1984 inclusive. In our industry, admittedly a high-risk industry, the duration of claims has gone from a low of 41 days in 1976 to a peak of 61 days in 1982 and 1983, with a slight drop to 58 days in 1984. The injuries are no more severe. In fact, in many cases they are less so. I also believe, although I have nothing to back it up, that the standard of medical care improved drastically from 1976 to 1982.

The cause is relatively simple. Present legislation provides that once an injured worker can return to work and finds none available, as is often the case in construction, he is continued on benefits until he finds employment. An identical worker not injured in similar circumstances would be on unemployment insurance.

Admittedly, the recession of 1981 and 1982 had a serious impact on this problem, but the construction industry recovered somewhat in 1983 and more so in 1984 and is continuing to recover in 1985. The 1984 figures do not reflect this improvement, however; rather, they show the days' duration of claims remaining almost constant.

In the view of our council, the board and its employees have done and continue to do an excellent job of administering the system. During the past decade, they have been subjected to the Wyatt report, the Weiler report, the white paper on the Workers' Compensation Act, Bill 101 and, whether admitted or not, political pressure from almost every member of the Legislative Assembly to settle claims in favour of one or more of their constituents.

How then is it possible for any organization in these circumstances to continue with high morale, good management and responsible financial performance? Our answer has to be that it is virtually impossible.

As employers we have worked hard, keeping in mind our prime objectives: to reduce accidents and to make sure the truly injured worker is looked after both financially and physically. We certainly have accomplished the first objective, as shown on our frequency graph. We must be accomplishing the second because the escalating cost would appear more than adequate to take care of the accidents in our industry.

What is the problem? Frankly, the workers' compensation system has been used by governments to replace social benefits. One has only to look at the days' duration of claims to see clear evidence of this. It is so easy for government to expand and increase benefits, because it costs the government nothing; the employer pays for everything.

Ontario's competitive position in the market-place must not be forgotten. Free or freer trade, when it comes—and in our view, it is not a case of whether it will come, only when—will mean all industry, not only the construction industry, will have to be more competitive. With costs of workers' compensation rising dramatically as they have been, and will apparently continue to do, we may reach the point where we have not

only the richest and best compensation scheme in North America but also no one left to pay the bill.

2:40 p.m.

As I said at the outset, I feel—and I know the Council of Ontario Contractors Associations feels—we have a very good workers' compensation system. In fact, most of the other acts in Ontario have been modelled after it. I understand people from around the world come to examine the Ontario workers' compensation system and go back to their own countries or states, or wherever they happen to come from, to try to upgrade their systems to match ours. That is something to be very proud of. I do not think we want to throw that away.

We do not have to reinvent the wheel. We have a perfectly good wheel. It has a few anomalies. There are a few inequities. These can be and are being addressed. Mr. Wrye has indicated that he is going to take care of some of the inequities with regard to survivor benefits immediately. At COCA, we have said for some time that there is too much of a gap between survivor benefits and the rest of the plan.

Although I feel the people at the board have done an admirable job with regard to the administration of the plan under what one could call dire circumstances in the past decade, they need some encouragement and help. We look to you, the politicians, to give them help. We would like to work with you to devise a better system and to help keep the system going and strong, as it is now.

As I mentioned at the outset, the percentage of problem claims we have is very small when you consider the total amount of claims that are taken care of by the Ontario board in the course of any given year. We tend to spend 95 per cent of our time talking about five per cent of our problems; that goes for any given situation. We look forward to finding solutions. We have no specific recommendations here. I believe it is a situation where we must sit down and work things out together, and that is what we look forward to doing.

Mr. Chairman: I am sure you have given some members of the committee reason to question you.

Mr. Martel: If the compensation board is looking for help, perhaps you would like to come to my office five days a week and look after the five per cent that does not seem to be much of a problem. I employ two people now, full-time, almost exclusively on the WCB. Most of us come here and vent our spleen once a year because we are going crazy within our own constituencies.

We cannot turn anybody off. We cannot turn people back and say, "No more."

There is one thing I want to question about your brief. It is about the duration, and Lord knows I have fought with the board often enough on this one. It is my understanding that once a practitioner says a man can go back to his regular work—I am not talking about suitable work; I am talking about regular work—his benefits are discontinued unless there is an economic condition, such as where seniority applies.

I am not certain about your industry because I believe you have primarily a hiring-hall practice with the unions you are affiliated with. I do not know what your experience is, but with Inco, Falconbridge and the companies I deal with, it is only when they are told they can go back to light-duty work that they remain on benefits. If they are ready for regular work, their benefits are terminated. That has been my experience; I could be wrong.

Mr. M. Elgie: Their benefits are terminated whenever they are fully recovered. That last five per cent of recovery seems to take an awful long time to happen whenever there is no suitable job available for the individual.

Mr. Martel: That is not in there. That is not how that reads. I was questioning whether there was a difference with what I was doing.

Mr. M. Elgie: We do have problems within our industry because of the mobile nature of the industry. If someone is unfortunate enough to be injured on a project, it may well be complete and the company may have moved on to a totally different area outside the individual's normal residence or area of work. Therefore, it is very difficult for the contractor to take on that same individual again. However, he goes back into the hiring-hall system, if you like, and should be available to the next contractor.

Mr. Martel: But you show it is almost 20 days longer.

Mr. M. Elgie: That is right. It is 20 days longer than it was back in 1976. My point is that the injuries are no more severe, but they are staying on benefits much longer now.

Mr. Ramsay: Mr. Elgie, in your conclusion, you said something to which I take very great exception.

Mr. M. Elgie: That is fine.

Mr. Ramsay: I resent the accusation you made that almost every member of this House puts political pressure on the board to solve cases for one or more of his or her constituents.

I avail myself of the services of my two constituency offices and my legislative assistant to work as advocates on behalf of my constituents who have come to me for help in dealing with the board, in going through regulations and interpreting things, making sure they get all the benefits that are theirs to have and helping them go through those processes.

I do not consider I am putting political pressure on the board to solve the case. We are just there. I have not personally dealt with the board. I leave it up to the people who work for me as advocates for my constituents to do that. I think it is a very unfair accusation, and I want to state that.

Mr. Chairman: Mr. Elgie, you apparently think, because members work with the board on behalf of their constituents, that this is applying political pressure. Mr. Ramsay is saying to you that this is simply doing the job for which we are there.

Mr. M. Elgie: I agree. Mr. Ramsay is doing the job of the representative.

This is going to improve because we now have the office of the employers' adviser. A lot of times, the worker has had many more people going to bat for him than some of the employers have had going to bat for them.

I acknowledge that the employers had abdicated their responsibility in this area, and we are now reaping the problems that have grown from that. The office of the employers' adviser will help in some of those situations to make sure both sides are represented. That is only fair. That is all we ask. Our claim—and our motto, if you like—has been a fair and affordable workers' compensation system. We have advocated that for years. The benefit of the doubt goes to the worker; it is now in the legislation.

I have dealt with the board for a lot of years, and I have attended and seen a lot of appeals where there was no representative whatsoever on management's side. When there is no one to state the case, it is very difficult for the people at the board to make an impartial decision. They have heard only one side of the story and have taken the rest from the somewhat limited information that is likely in the files.

We acknowledge that this has been an employer problem over the years. We are working very hard to overcome that. COCA is having a full-day seminar on Thursday addressed totally to the employers. It will try to provide them with the wherewithal to deal with the administration of the Workers' Compensation Board and to represent themselves in that case. We are not asking them to get in and take

advantage of anybody or to turn the tide on anybody, but we do feel they must stand up and be counted; they must represent themselves. The system can work well.

Mr. Ramsay: I was going to make a comment, but I think Mr. Elgie clarified it somewhat when he mentioned the benefit of the doubt to the worker. When he said he felt all the resources were on the side of the workers, I wanted to remind him that the institution we are talking about today is called the Workers' Compensation Board and that is probably why.

Mr. M. Elgie: You forgot who pays for it over the years.

Mr. Ramsay: That is true. I am glad there is the employers' advisory board. I think that is going to be a benefit for you in bringing some sort of equity to the system.

2:50 p.m.

Mr. D. W. Smith: First, I want to apologize for not being here earlier, but I had to meet some people.

In the last part of the presentation here, you referred to free or freer trade. How quickly do you think that is going to come? Do you think the worker packages or the management packages in wages are going to have to change in order to compete with the world? This seems to be what they are talking about. I happen to have sat on the select committee on economic affairs, and that is what it sounds like to me. It is coming; I do not know when for sure. I would like to hear more of your comments on that subject.

Mr. M. Elgie: I am no expert on the subject, but it seems fairly logical that if the borders are opened and we are competing with another jurisdiction for a given contract that does not enjoy the same standard of benefits we employ, it is going to be very difficult to compete with it for a contract. We do not want to get too far out of step with the others with whom we are going to be competing in free trade.

Mr. D. W. Smith: You used the words "out of step." How far out of step do you feel we are now, or are we right in line? Where do you think the difference in levels is?

Mr. M. Elgie: With respect to workers' compensation in Canada, Ontario has one of the richest workers' compensation plans around. There are a couple of provinces that have higher maximum benefits, but I think the overall benefits package in Ontario is virtually second to none, especially compared with those south of the border. It is much more attractive than in the

majority of US jurisdictions, where most of our competition is likely to be.

Mr. D. W. Smith: Do you think that to compete, Ontario workers are going to have to have a lower standard of living or that Ontario companies are going to have to drop their standards? Is that what we have to prepare ourselves for?

Mr. M. Elgie: I am not saying we have to stop it. I think we have to be careful we do not escalate too quickly and get further out of step than we are.

Mr. Chairman: Thank you, Mr. Elgie, for appearing before the committee. I think I speak for other members of the committee when I say we would all be happy if our constituency offices were not filled with injured workers every day.

The next group scheduled to appear before us is the Ontario Fruit and Vegetable Growers' Association, with John van der Zalm. The committee members have the brief, which is exhibit 12. I would like to welcome you to the committee. Some faces look familiar from previous hearings.

ONTARIO FRUIT AND VEGETABLE GROWERS' ASSOCIATION

Mr. Fisher: I am Peter Fisher, president of the Ontario Fruit and Vegetable Growers' Association. With me today I have Doug Avery from the Ontario Federation of Agriculture. Along with Doug from the federation of agriculture are Roger George and Pamela Young. From the Ontario Fruit and Vegetable Growers' Association is the vice-president, Irene Long, and our executive secretary, John van der Zalm. With me today from the Landscape Ontario Horticultural Trades Association is Robert Cheeseman, and from Flowers Canada Inc., Barney Wilson.

Mr. Chairman: You are amply represented today.

Mr. Fisher: We have some concerns.

The farming community would like to thank you for this opportunity to submit its views on the Workers' Compensation Board's 1984 annual report.

According to the Farm Safety Association, about 25,000 farmers pay assessment to the Workers' Compensation Board. These farmers include both those who pay premiums for their workers and those who take out coverage for themselves. The three farm rate groups paid more than \$21 million in assessments in 1984. It is not clear how many workers are covered under these assessments. However, based on Statistics

Canada 1981 census data, there are about 16,500 year-around paid workers on Ontario farms, and 862,000 weeks of seasonal labour were reported from 26,800 farms. Unfortunately, we cannot translate these weeks of labour into number of people with any great degree of accuracy.

Farm workers are not covered by the Labour Relations Act, and therefore there is no provision for them to unionize. Farming is also exempt from the Occupational Health and Safety Act. Farmers and their workers do, however, have the Farm Safety Association, which plays a major role in educating farmers about the many dangers they may encounter in their day-to-day operations and about how they can improve safety on their farms. The Farm Safety Association is financed from WCB assessments paid by farmers.

Because of the economic difficulties experienced by many farmers in the past few years, farmers have become increasingly cost-conscious. Workers' Compensation Board premiums increased by 15 per cent for rate groups 876 and 943 and by seven per cent for rate group 953 in 1984, by 15 per cent in 1985 and will again in 1986. The rate of increase is expected to be high for the next several years in order to bring the unfunded liability down for those rate groups. It is not always possible to pass these increases along to the buyers of our products.

The announced rate increase of 15 per cent for premiums to agricultural rate groups is excessive and cannot be borne by the agricultural community. Many farmers today operate under severe financial burdens and many are close to bankruptcy. The amended act, Bill 101, will increase the cost of WCB assessments to farmers. According to the WCB actuary, the change in survivors' benefits will likely have the most impact.

We are not opposed to changes if they provide increased benefits to workers and farmers, as a change in survivors' benefits would. It is desirable for the wellbeing of industry that increased costs be phased in gradually. We are opposed to any changes that may increase costs without providing benefits to the rate groups that pay a part of the costs.

We are referring here to subsection 24(3) of Bill 101, which has amended the powers of the board to include the ability to "undertake and carry on such investigations, research and training and make grants to individuals, institutions and organizations for investigations, research and training in such amounts and upon such terms and conditions as the board considers

acceptable." This will allow the WCB to provide funds to groups other than the safety associations to finance programs, including safety education.

The immediately obvious users of this section are labour unions. It is possible that the Ministry of Labour will be able to receive funds under this section. The ministry already receives funds from the WCB under section 12 of the Occupational Health and Safety Act. This allows it to receive a basic amount of \$4 million, increasing by up to 10 per cent a year. According to the 1984-85 public accounts, the Ministry of Labour received \$5.28 million.

The present indications are that little or no knowledge of agriculture in the present occupational health and safety educational authority exists. Since 15 per cent of the total number of employers in Ontario are agricultural employers, it is most important that the opportunity for input by agriculture be recognized. We do not understand why agriculture was not consulted at the time of appointments to the occupational health and safety authority.

Farming, as mentioned above, is not covered by the Occupational Health and Safety Act, even though it pays its share of the costs. Any funds flowing to the Ministry of Labour from this new amendment would similarly be paid partially by farmers, even though farmers and their workers would not receive any benefits from the use of the funds. Farmers pay for programs that do not apply to them or their workers.

Funds are moving from employers to the Ministry of Labour. Ministries have traditionally been funded from the income tax revenues collected from society, including business as a whole. Financing ministries through WCB assessments is a back-door tax on business. It is not a tax based on income but a tax based on labour payroll. In many agricultural and horticultural operations, labour constitutes up to 50 per cent of the total production costs. A further increase in premiums of 15 per cent in agricultural rate groups will raise the WCB rate impact on total costs to about 2.72 per cent.

3 p.m.

In our view, this represents a major shift in the philosophy of fair taxation. The potential ramifications of such a shift away from taxation based on ability to pay should be fully discussed by legislators, employers and other interested groups.

A related area where farmers are concerned that they are losing influence over issues that concern them is policy control over safety programs. As mentioned above, the Farm Safety

Association is financed through assessments paid to the WCB by farmers. In the past, the FSA has operated with a great degree of autonomy in designing safety programs to suit farm needs.

The FSA has a board of directors composed of 19 farmers representing a wide range of commodities in geographic areas. This board has the ability to keep FSA policies and programs in tune with the needs of the agricultural community.

The FSA has also developed working relationships with many agricultural groups. Four-H clubs have set up safety clubs. Safety courses are offered at eight agricultural and community colleges. Various activities and programs are offered in conjunction with junior farmers' associations, rural school boards, the Ministry of Agriculture and Food, local farm safety associations and the Ontario Retail Farm Machinery Dealers Association amongst others.

Through these co-operative efforts, the FSA, with relatively limited financial and manpower resources, has been able to reach a large part of the farming community with its programs. A recent restructuring of the WCB with the imposition of the tripartite administrative authority and a joint policy review board has left the farm community in doubt as to the status of the FSA under this new structure.

There is concern that safety policy will be determined at the board level, with implementation delegated to the safety association. There is no assurance that the farm community will have any significant input into the policy process. The needs of the farm community differ from those of other business groups. We are, for example, the only group where the children are raised in the work place. Safety education has to be as much directed at the family as at the hired workers. We want the FSA to continue to be able to design and implement its own safety programs and we will resist any attempt to reduce its current autonomy.

The Ontario Task Force on Health and Safety in Agriculture was set up in October 1983 to determine the areas in which agricultural workers need health and safety protection and to suggest ways in which this can be provided. It is possible that this task force will make recommendations about the role of the FSA.

In our view if there are any indications that the FSA's role in safety education should be changed, it would have to be in the direction of strengthening and expanding its current mandate. Certainly, there is the ability to develop and deliver programs that should not be impaired in any way.

In the light of the current task force, no changes should be made that will affect the FSA's status, policies and programs until the task force has made its report this year. Farmers, large in numbers as employers, are a relatively small rate group, accounting for about two per cent of the WCB assessment income. However, both family and nonfamily hired labour are important inputs in the operation of the farm. Thus, changes to the WCB are a concern to our industry.

We trust this committee will consider fully the concerns that we have raised for our industry. Thank you.

Mr. Chairman: Thank you. Did I miss it in here? Does the FSA get funds from the WCB as a safety association?

Mr. Fisher: As a safety association, that is correct.

Mr. Chairman: The other question flowed from your appearance before this committee a year or two ago.

Mr. Fisher: A year and a half ago.

Mr. Chairman: I remember being startled—I am a farm boy myself, who was injured when I was about 10 years old—by the number of accidents occurring with young people on farms. It was really amazing and very disturbing. I wondered whether or not you were having any success in dealing with that statistically.

Mr. Fisher: We certainly feel that our in-school programs, our elementary school programs in particular, where the counties that have picked those up and used them—and we need the support of the rural county school board to get those in—have been making quite an impact. It has been implemented for only about five years now, and so the real results of it are hard to tabulate at this particular time. But we feel there is quite an impact, an awareness of safety among the people in those counties that have put on our program.

Mr. Chairman: We wish you well in that program. It is important.

Mr. Martel: Like my colleague, I am from a profession that chose not to go into the Occupational Health and Safety Act at the beginning—teachers. I always thought they made a mistake. They have subsequently lobbied to get in.

I have difficulty understanding something. I have worked with trade unions and so on that do not know the chemical compositions, the make-up of the substances they are working with and the effects of those on the lives of people. You people have taken almost the opposite position

from those in the trade union movement who want to know what the substances are, the chemical compositions, the makeup and so on in order to protect themselves from becoming ill from using substances of which they do not know the composition.

I was here when the first Occupational Health and Safety bill came in, and I know the farm community opposed being brought in then. I look at statistics which show the severe types of accidents the agricultural community has. They are not just broken legs. If a guy gets caught under a machine, his arm is torn off. They are really severe injuries.

I have always been amazed at your almost—it goes through the brief today, and maybe I am misreading it—hostile opposition to becoming involved. I am wondering where you are getting the technical knowhow, staff and expertise to go around. I am looking for answers to why you have taken the stance you have taken. I really find it a mystery.

Mr. Fisher: I would like to try to answer that question. At times we are between the devil and the deep blue sea. It has been the opinion of the agricultural community that the implementation of the Occupational Health and Safety Act, or Bill 70, as it was at that time, would be a very disrupting factor if it came into the agricultural community all at once.

The agricultural community is like so much of the rest of small business in Ontario. It is having trouble coping with such a complicated set of rules and regulations. As the Occupational Health and Safety Act turned out, even though they thought they had an omnibus act, it really did not cover all situations. They had to make special regulations for construction workers, firemen and some of these things.

That was really what the agricultural community was asking for. We did not ask to be exempt from the act for ever. All we asked was that we be exempt from the act until later. There is a committee working right now, whose report should be out at the end of this month, which we hope is going to be bringing forth some kind of recommendations.

Mr. Martel: You just had a seminar this spring up in the Timiskaming area.

Mr. Fisher: They were all over the province talking to agricultural and other groups about those particular issues and trying to find the best method possible to implement some type of controls, educational processes and whatever would be required to make the agricultural community a safer place to work.

It is not that we were opposed to regulations. We felt the act and its many clauses would be an awful burden to throw on the agricultural community all at one time. We were trying to find a way of doing that in a step-by-step, orderly manner.

Actually, we had some basis to go on because that kind of thing had happened in some of the states. That kind of regulation turned out to be utter chaos. All of a sudden, agriculture had to deal with the total Occupational Health and Safety Act.

3:10 p.m.

Mr. Martel: Do you not have any fear about the substances you are working with and how they affect you? You work with a lot of chemicals and with a lot of substances that could really be detrimental to your health. I can recall the young guy they brought from the United States who died, though they put a couple of lungs in him, from his overexposure to toxic substances.

Your membership works with all kinds of chemicals, whether it be fertilizer or pesticides and so on. Look at what Agent Orange did in Vietnam. One becomes horrified about the prospects of the stuff with which you are working, and yet there is great reluctance.

Mr. Fisher: There is really no reluctance. Actually, the reluctance is to go off on a tangent because there is a lot of feeling of pressure on something. A far worse problem at the moment is dust, and our statistics go up. As you mentioned, the most serious accidents involve people maimed on machinery and those kinds of things. That is really where our statistics say we should start.

Mr. Martel: But you are getting trapped. What worries me is that we do not have a handle on what is happening to people who are working with chemicals. Unless there are epidemic proportions of anything, there is no way of proving a certain substance is carcinogenic. You will never have that handle.

The trade union movement and those people involved in the chemical industry do not have that and they are working with these all the time. If you are going to wait for a body of medical evidence that is going to say, "We have to protect ourselves against this," half your membership could be wiped out before you could tie it to a specific substance. That is what worries me.

Mr. Fisher: When we have to go to Alabama or wherever to bring back a serious injury from the chemical things, I can see every day the effect. You can tell how far we are in the corn harvest by how many people have lost arms. That

is a serious problem, and surely we should start. I am not against going all the way. I just say if you bring that much into it all at once, you are going to defeat the purpose of the legislation.

Mr. Martel: I think I would rather err on the side of protection rather than caution. I would like to know the statistics since 1978. I do not know if you people have compiled, since the introduction of the Occupational Health and Safety Act, what we have had in terms of lost limbs or people killed by a tractor turning over. They make it into the newspaper, not like other accidents. What are the statistics in those fields? Does anyone have a handle on that?

Mr. Chairman: Barney Wilson from Power Canada.

Mr. Wilson: The question on pesticides is very important and should be addressed specifically because of the concern of workers and people outside the agricultural industry about pesticides. I think you have brought up a very good question.

Like the Workers' Compensation Board, which has been given a lot of credit here today, Canada also has the highest standards of any country with respect to pesticide control regulations. Before a pesticide is registered—and the whole registration process takes place in Canada, not in the United States, not in Holland nor in any other country—it has to be approved by the Department of Agriculture, Environment Canada, the Department of National Health and Welfare and the Department of Fisheries and Oceans and then by your own provincial government under the Pesticides Act.

If you are concerned about pesticides, if you reviewed the statistics, you would find allergies and those things much more pertinent than the pesticide problem. Many agriculturists in Canada say our standards are so high we cannot compete with the other countries. That is all I have to say.

Mr. Chairman: Thank you. The member for Sudbury (Mr. Gordon) has a question.

Mr. Gordon: A question and a comment too. I see you say here, "We do not understand why agriculture was not consulted at the time of appointments to the occupational health and safety authority." I take it you were not consulted.

Mr. Fisher: No.

Mr. Gordon: I can understand how your organization feels about your role vis-à-vis occupational health and safety and how workers' compensation acts within the farm community.

Farmers are in a very difficult situation in North America today, particularly in Ontario, because of rising costs for goods and services and falling prices for your produce.

Naturally you are very concerned about the kinds of measures that are going to be instituted and that farmers are going to have to follow. It is only just that your organization and the farmers you represent should have real input into policy changes that are going to take place. The fact that you were not even consulted is shocking, as far as I am concerned.

I was intrigued by your comments on page 4, where you said: "Ministries have traditionally been funded from income tax revenues collected from society, including business as a whole. Financing ministries through the WCB assessments amounts to a back-door tax on business that is not a tax based on income, but a tax based on labour payroll." Then you talk about the costs of labour in the total production cost.

It seems to me what you are getting at, and this has been a favourite topic of one of the members on this committee, is how we should go about financing in our society today and in future years the costs of accidents and the sickness that results from those accidents or from toxic substances. It seems to me you are not giving an answer to how we should finance it, but you are questioning how we can continue to go on year after year, particularly in the farming community, with assessments of 15 per cent additional premiums and so forth.

If this is going to go on year after year, how is the farming community going to survive when you consider all the other built-in costs you have? Am I correct that you are asking the question, is the way it is financed and is going to be financed in the future the way we should be going? Are you not raising that issue?

Mr. Fisher: That is correct.

Mr. Gordon: I can understand you raising that issue too. Unlike politicians, who sit around listening to people all day, the farmer out there working in the field on his tractor is trying to think about things. Obviously, though, this group is touching on the nub of the issue.

One issue we are going to have to address in our report at the end of the week is whether or not we are going to say the WCB should continue to fund itself in the manner in which it has been funding itself in the past, particularly considering the unfunded liability it has at present.

I congratulate you on your brief, which was very clear. It reflects the independence that the

farming community feels in this province and the independence you have built up.

Mr. Chairman: Are there any other questions from members of the committee?

Mr. Avery: I would like to refer back to something this gentleman referred to a few minutes ago about the concerns within our industry. It should be noted that, as representative groups of the farming community, we are very concerned not only about the safe use of pesticides and other compounds on our farms, but also about the machinery we use, etc.

We addressed many of those concerns and documented our interests and our suggestions when we made a presentation to the Richards committee dealing with occupational health and safety. We outlined many of the characteristics of our industry that are totally different from any other industry in the world.

We mentioned one of them in this brief, that the children are raised in the work place. The other fact about that is what the work place consists of. I am involved in a very small farm and I work close to 300 acres, which is completely different from somebody working in a factory in the city of Toronto and confined to a few thousand square feet.

3:20 p.m.

These are the parameters with which we are dealing, and these are some of the reasons there was some hesitation in our community about getting involved in the act at one time. We have since addressed those in the brief that was presented to the Richards committee. If anyone in this group would like a copy of it, I am sure we can dust off a few and make sure they are available to you to indicate just what steps we have taken, the interests we have addressed and how we suggest some of these things be dealt with.

Let us not overlook the fact that we are extremely concerned because, first of all, we do hire employees, we raise our families in the community and in most cases, we, as owners of the farm businesses, are the ones who continue to handle these chemicals day in and day out. We have the concerns, yes.

Mr. Martel: Pardon me. I am not suggesting you are trying to fob it off on some farmhand. You are handling those chemicals and could well end up ill yourselves. That is what worries me and it has bothered me for a long time.

I recall the great publicity about the committee in Haileybury this spring. The number of severe accidents—when you people have an accident,

you have a biggy—and the number of children who are injured has worried me for a long time. None of us is immune to accidents and illnesses. I do not know how you educate the entire farm community, even about the substances you handle.

Mr. Avery: We address some of those concerns in the report, and we will send some copies to the chairman to distribute to you.

Mr. D. W. Smith: I guess I speak as a farmer. We maybe get our backs up sometimes about more regulations because in small business, and especially in farming, we cannot add those costs on to our product. That is what we are getting at here. If we had the ability to add these additional costs into our product, then I think we could accept every regulation. That is what I believe you are trying to say.

About 19 years ago, I was a statistic in a farm accident. I appreciate any help that farm safety offers people. Yet these accidents often happen innocently. You think you are doing things right. People like to visit the farm. If you do not let them try these little jobs, such as riding on a tractor and being around machinery, then you are thought of as a mean individual. Sometimes, if you are really mean, there are no accidents. If you are not that way, then you get into trouble and it seems the farming community is branded in that light.

If we could add our costs on, as do some other industries, we would not have these drawbacks on some of these regulations. Right now, our grain prices are about the same as in 1972. Is that a fair assessment to make? Our costs certainly are not at 1972 costs.

Mr. Fisher: The farming community, as you can read in the paper, has serious problems. It is concerning these costs that we are here today.

Mr. Chairman: Thank you for appearing before the committee. It is good to see you still active.

While they are departing, I will raise a matter with the committee. It would appear that by Thursday morning Merike will have for us the list of the recommendations made by various groups by topic, and that we should then deal with those and see how we turn them into recommendations. If we can do that Thursday, there is obviously no need to sit on Friday, which I think would suit most committee members.

Mr. Barlow: I support that.

Mr. Chairman: Therefore, we will try to proceed with that Thursday, because Merike could not come back by Friday anyway with

anything written for us to take a look at. We can take a look at that when the Legislature comes back in the next couple of weeks.

Mr. Barlow: We do not need to have any report ready for any date at all.

Mr. Chairman: No.

Mr. Barlow: So we could deal with this over the next two or three weeks.

Mr. Chairman: We could deal with it as we see fit. Why do we not assume that will be our schedule?

Mr. Barlow: I want you to know how dedicated I am. I turned down a ticket for tomorrow's ball game.

Mr. Martel: So did I.

HAMILTON AND DISTRICT LABOUR COUNCIL

Mr. Chairman: Our next group is the Hamilton and District Labour Council. Committee members have exhibit 13, which is its presentation. I assume these people are Gary Thomas and Sharon Fair. We welcome you to the committee.

Mr. Thomas: We would like to take the opportunity at this time to present our brief. I will give you a bit more background on both of us. I am Gary Thomas, health and safety chairman of Local 354 of the Canadian can workers. I am also the elected delegate on the occupational health and safety committee of the Hamilton and District Labour Council.

Sharon Fair is an elected delegate on the health and safety committee of the Canadian Union of Postal Workers, and also an elected delegate on the Hamilton and District Labour Council.

Ms. Fair: As you know, we are here from the Hamilton and District Labour Council. The labour council is affiliated with all Canadian Labour Congress and Ontario Federation of Labour unions in the Hamilton area. Each union sends representatives to council and they attend the meetings. At the meetings we vote on various issues pertaining to labour. It is a very democratic process. As a matter of fact, we discussed and voted on everything we will present today.

You can see that Gary and I are just average workers coming to present our views on the 1984 report, with suggestions on what we would like to see in the 1985 report that would be helpful to us.

Mr. Thomas: We would like to begin by referring to page 8. This is in the annual report under the heading "Claims Response Times."

We would like to see, instead of percentages, actual numbers in all three of these columns.

Further to this, under the heading "Complicated Claims," was the delay caused by misinformation or insufficient information not provided by the injured party, the doctors' reports, or employers? Are there certain companies that misunderstand proper procedures in the system so much that their workers persistently fall in the complicated-claims category?

We feel the board should provide more in-depth analysis of the complicated-claims sector, finding common areas of problem recurrences; i.e., if a given doctor does not provide adequate information on a persistent basis, or errors in company reports.

Finding these faulty parties, the board should direct educational information towards them. If this fails to improve the situation, perhaps penalties should be considered to avoid deliberate abuse by employers or company doctors.

Ms. Fair: We would like to apologize at this point. There is a typing error in the next section, which refers to page 9. It should read, "Referring, on page 8, to the figure of 91,392 injured workers that are on active pensions, we were wondering how many of these people were able to retain their same employer."

Also, with regard to the 5,731 patients who successfully completed treatment at the Downsview Rehabilitation Centre and were considered fit for work, how many of these people were returned to their original employers and how many are gainfully employed to date?

Mr. Thomas: Further, on page 9, under "Comprehensive Health Care" for injured workers, specifically referring to industrial disease, we would like to see the following concerns addressed: What specifically were the diseases? How many of these claims were allowed? What was the claim response time?

Ms. Fair: Of the "3,714 injured workers across Ontario that were successfully rehabilitated, enabling them to be fit for work," once again we would like to know how many of these people were able to return to their former position. How many are still gainfully employed at present?

Finally, we would like to see more information given on disability pensions; i.e., the nature-of-illness or injury chart and corresponding percentages of pensions allowed.

3:30 p.m.

Mr. Chairman: Thank you both. You have startled the committee, because you actually made reference to the 1984 annual report; which

we are supposed to be discussing here. That has not happened previously.

We have with us through all these hearings the WCB officials, including the chairman. I hope they have taken note of the specific questions you have asked. If not, we can forward them to them to try to get some answers for you. If we can get the answers for you, answers they can come up with from material that is in the existing 1984 report, we will forward them to you, because your questions are very specific and most appropriate in my opinion.

Mr. Gordon: The brief is very comprehensive, and I could not agree with you more. As a matter of fact, I think many of us sitting on this committee are perhaps a little disappointed at how lacking in information and explanation this current report is. I think that should be one of our recommendations.

Mr. Martel: I think it would help with statistics. It is important, and it might help the board itself to analyse where the problems are that are holding up the ultimate disposition of any claim. That is what you are looking for. Is it the doctor's fault, the employee's fault or the employer's fault? One might then be able to zero in and at least try to get rid of the things that occur that could be easily rectified and then get down to the gut issue.

One of the things you might have asked when you were talking about claims for industrial diseases is, how many were allowed? It would also be interesting to know how many were denied and how many were filed. There is no real indication of how many people are found under industrial diseases and what the disposition of all of those are. I think Paul Weiler made reference to it. Only about 10 per cent are being recognized out of the cases.

Again, I understand that is just a ball-park figure; no one has a real handle on it. If the report were more specific and dealt with numbers, it would take away the vagueness of the report and one would start to analyse it a lot more intensively.

Mr. Gordon: We could be more constructive in our criticisms; not that we are not constructive now.

Mr. Martel: It has been suggested by some that we are living in the past.

Mr. Chairman: While your brief is very short, there are some questions that are very probing. At the bottom of page 1, where you mention providing in-depth analysis on the complicated claims, finding common areas of

problem recurrences, etc., there is a great deal behind that question. There is a great deal of experience that has gone into that question, or you would not know how to ask it. I think the committee members understand that. We appreciate the brief very much. You are asking the right questions. What response we get from the board, we will make sure we will pass on to you as soon as we get it.

Mr. Martel: Are you people having the same sorts of problems that you have heard us talking about here? I mean just endless pursuit of people, for example; your union or other unions involved heavily with people who have to take on these claims.

I increasingly worry at the number of us who are advocates on behalf of injured workers. I think we have to move away from that, and the compensation board has to resolve those cases adequately and promptly the first time. I do not think that is our role or function. I do not think the unions should be putting up a pile of money to hire people who do nothing but handle compensation claims. I suppose you are running into the same problems some of us are and you have to do it.

Ms. Fair: I am with the postal workers. As you know, we are under the schedule 2 employers system. I think if we were to take an actual study of claims filed, something like 90 per cent would fall under the complicated-claims factor. We have even had some people wait as long as nine or 10 months for an answer about whether or not a claim is accepted.

Some employees by this time owe the post office \$9,000 or \$10,000 if the claim is denied. It puts them in a very difficult financial bind, and we are finding that because of the way the forms are filled out, many workers' compensation people are under the impression that we are being paid. As a matter of fact, we are not being paid a cent. Some of these employees are entitled to go through unemployment insurance and what not, but they are finding themselves in a real bind for that period of time.

Mr. Ramsay: Did I understand you to say that with this delay caused by the board, some employees could end up owing the post office?

Ms. Fair: Yes, if the claim is denied; sometimes the post office will pay advances.

Mr. Ramsay: Oh, I see.

Ms. Fair: You could end up owing a sizeable sum of money. This is happening to us quite a bit. Often the reports are not filled out properly,

which is basically where that question came from.

We will admit that sometimes it is the employee's fault and sometimes it is the doctor's fault, but many times we are getting the impression the reports are deliberately not filled out properly as a sort of punishment. "Do not go on compensation because it is not going to be worked out in a hurry."

Mr. Martel: Are there investigations done to follow up why it is taking so long for the board to investigate appropriately something that runs for seven, eight or nine months?

Ms. Fair: We have tried. Because we are on schedule 2, the post office would not be penalized financially in any manner. We have approached the Workers' Compensation Board at various times to ask if it would please conduct an investigation because ours is so high. If you are off one day and return to work, your claim would be approved. However, if any of the workers are off for any period of time, we know automatically they are looking at a three-month to nine-month wait for an approval.

We are wondering why this employer can fall persistently under complicated claims. Not every claim can be that complicated.

Mr. Martel: The CNR is much like that. I guess it is schedule 2 as well. I get involved in many of them. Even the union does not have people involved heavily because all they have is a local chairman, or the United Transportation Union has somebody, but they do not have people hired full-time as the United Steelworkers of America does, or a business agent in the construction union. In fact, it becomes very complicated because they do not handle that many, yet they seem to take for ever to get reports submitted to the board.

Mr. Thomas: I work for American Can Canada Inc. I am on the compensation committee. When you get the back sprains, it is

sometimes very complicated to prove. The company will place the employees on sickness and accident benefits while it waits for results from the compensation board. Further down the line, if the compensation board approves the claim, it must reimburse the company for what the employees received on sickness and accident benefits. That is where we get the complicated cases.

It has to be placed by the local union and, as Mr. Martel said, it does entail a lot of time for union representatives to do it. If you had some basic facts when you got to the complicated cases and you could prove these things or pinpoint them, it would take a lot of time off. However, workers' compensation is a worker's right. Workers or union representatives should not have to come up here year after year to fight for it.

There are some drawbacks when you get into industrial diseases as to what the companies will permit or what the compensation board will permit. However, coming back to the complicated cases on injuries alone, it takes up a lot of the union time. You could work things out. I think most labour in this province could work hand in glove with management if you did not have to put so much resource time into proving the cases you already have.

Mr. Chairman: Are there any further questions from the members? Mr. Thomas and Ms. Fair, thank you very much for appearing before the committee. We appreciate it.

The committee will stand adjourned until tomorrow at 10 a.m. In the morning, we have the Ontario Mining Association, the United Steelworkers of America and the Welland District Injured Workers Association. I know you do not want to miss any of them.

The committee adjourned at 3:40 p.m.

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 Ramsay, D., Vice-Chairman (Timiskaming NDP)
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From the Workers' Compensation Board:

Elgie, Dr. R. G., Chairman

From the Canadian Manufacturers' Association, Ontario Division Workers' Compensation Committee:

Franceschini, R., Cochairman; Salary Services Manager, Stelco Inc.
 Hiseler, S., Cochairman; General Manager, John Deere Welland Works
 Mahoney, W., Member; Supervisor, Loss Control, Livingston International Inc.

From the Council of Ontario Contractors Associations:

Bulmer, C., Executive Secretary
 Elgie, M., Chairman, Workers' Compensation Committee
 Keyes, J., Member, Workers' Compensation Committee; Director of Personnel, Pickett Construction Ltd.

From the Hamilton District Labour Council:

Fair, S., Delegate, Occupational Health and Safety
 Thomas, G., Delegate, Occupational Health and Safety

From the Ontario Fruit and Vegetable Growers' Association and the Ontario Federation of Agriculture:

Avery, D., Ontario Federation of Agriculture
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No. R-10

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament
Wednesday, October 9, 1985
Morning Sitting

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 9, 1985

The committee met at 10:16 a.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984

(continued)

Mr. Chairman: We now have representation from the three functioning parties at Queen's Park and the standing committee on resources development can begin. I am sorry for the delay.

We welcome the Ontario Mining Association to the committee. We appreciate your being here and we would ask you to introduce yourselves and your colleagues.

ONTARIO MINING ASSOCIATION

Mr. Brehaut: Mr. Chairman and members of the committee, my name is Henry Brehaut and I am president of the Ontario Mining Association. On my left is Jim Pirie, who is chairman of our workers' compensation committee, and on my right is Bruce Campbell, our manager of technical services. In addition, we have three members of the workers' compensation committee here in the audience as well as another of our OMA staff members.

In our presentation we have started off with a list of our member companies, which I will not read; it appears as the first page past the cover. I would like to note that while mining, at least in many people's eyes, is viewed as a northern Ontario activity, a number of our companies, such as Canada Talc Ltd., Canadian Gypsum Co. Ltd., Indusmin Ltd. and a few others are still active in southern Ontario, so to that extent our activities are province-wide. We also count among our members two or three companies that hope to be producers, and they are equally concerned about many of the matters before us today.

The second page is a chart that, while not referred to directly in our presentation, does track the safety record, in this case the Mines Accident Prevention Association (Ontario) stats, for the industry in comparison to those of other safety associations. Without commenting on the records of others, I think it very clearly portrays the efforts our members have made—during the last five years, in this case—and the fact that we have made a significant dent in our accident frequen-

cy. I will return to this theme as I go along in my discussion.

We have 30 members, which mainly are producing metal and mineral companies in Ontario, and some 30,000 people are directly employed by these companies. According to a recent submission by the Ministry of Northern Affairs and Mines to the select committee on economic affairs, employment in sectors related to mining totalled 219,000 in 1984.

Mineral production generated \$4.4 billion worth of new wealth for Ontario in 1984 during a period of economic recession and fierce international competition. The mining industry of Ontario, which exports 85 per cent of its products into highly competitive markets, does not set product prices and cannot pass on cost increases to its customers.

In the current economic environment, our member companies have taken many serious steps in order to maintain their ability to compete. Costs have been cut and productivity improved. Throughout this period of adjustment, the industry's safety record has steadily improved, with a decrease of 62 per cent in accident frequency in the last 10 years.

Improved safety and lower costs do not go hand in hand, unfortunately, as compensation costs have continued to escalate at a rate well above the inflation rate, and this is a problem we must all address. As an example, table 1 illustrates the relationship of the cost-to-injury rate for the nickel sector, the largest of the mining groups. A similar trend exists for the other mining groups as well. The table shows clearly and dramatically that although the number of injuries has fallen in the nickel sector by about 75 per cent in the last 10 years, the costs of compensation per employee have risen some 430 per cent during the same period.

The improvement in our safety record illustrates our commitment to safety, and we are equally committed to a fair compensation system for those sustaining injuries out of and in the course of employment. We feel, however, that employers in this province can no longer afford to bear the full financial burden of the compensation system as it is currently guided by legislation and administered by the Workers' Compensation Board.

There is no doubt that workers' compensation is now big business in Ontario. In 1984, the Workers' Compensation Board had an income of \$1.25 billion, and actuarial estimates of the unfunded liability amounted to \$2.7 billion on an unindexed basis. The indexed figure, acknowledged in the board's 1984 report, places the potential unfunded liability at \$5.4 billion.

In the 10-year period from 1974 to 1984, allowed lost-time claims increased by five per cent while benefits paid out under schedule 1 of the Workers' Compensation Act increased by 520 per cent. During this same period there was a 113 per cent increase in the consumer price index. This would indicate that the workers' compensation system is out of control at a time when employers across the province are desperately trying to control their own costs.

A major factor affecting our compensation costs has been the extension of the system to cover situations that do not have occupational origins. The Workers' Compensation Act was very progressive legislation when it was enacted early in this century. In 1915 the definition of a work-related disability was very clear-cut. In 1985 it is not as simple. It is much more difficult now to determine if a disability is sustained "out of and in the course of the employment" and is therefore solely the financial responsibility of the employer.

For example, a worker disabled with lung cancer requires an income. However, his or her disability may be due primarily to lifestyle and only remotely to work-related exposures. Or a worker may be temporarily disabled and eligible for temporary benefits, only to find that his former job has disappeared owing to a faltering economy. He still requires an income.

There are many such examples, and currently industry finds itself in the position of paying the full cost of claims that may have nonoccupational origins. The present compensation system does not distinguish clearly between employment conditions and external factors. As the Macdonald commission pointed out, "Proposed modifications of the current system of compensation do little to increase the ability of WCBs to determine which disease-related claims are legitimately occupational in nature."

There have been numerous proposals for altering existing legislation. If the compensation system is to remain totally employer-funded, workers' compensation should be a distinct and self-contained program for dealing only with occupational disabilities. Another suggestion has been to incorporate the existing compensation

system into a comprehensive disability insurance scheme. Whatever the options, it is an important issue that must be addressed in full detail and in the very near future.

We have trouble as well in understanding the situation regarding the unfunded liability. In 1915, the government believed compensation should be prefunded; that is, an accident fund that would secure the benefits promised to Ontario's injured workers.

In 1974, however, the government of Ontario legislated changes in the Workmen's Compensation Act that generated costs of \$838 million. This resulted in an unfunded liability totalling \$518 million the following year, the beginning of a steadily increasing actuarial deficit. In 1984, the unfunded liability of the board was estimated, as we stated earlier, to be \$5.4 billion.

In the past 10 years, the mining industry paid \$530 million, including investment income, to the board, while the board paid out in benefits, administration and other charges a total of \$384 million. While it may appear that we had a surplus of \$146 million, our unfunded liability grew from \$62 million to \$186 million, and this would have been \$372 million if the actuarial calculations had been made to reflect full provision for cost-of-living increases.

To put this \$186-million unfunded liability in context, the profits of the 10 largest mining companies in Ontario, all members of the Ontario Mining Association, totalled \$45 million in 1984. The unfunded liability of the Workers' Compensation Board for the mining industry is more than four times the total profits of these companies.

It is obvious that both the board and the government have recognized, since 1975, industry's inability to fund the compensation system fully. It is most unlikely this situation will change. Therefore, we suggest the government consult with industry and labour to determine reasonable and realistic levels of reserves.

Legislative increases have also added to our current compensation costs as well as contributed to the unfunded liability. In 1984, for example, the WCB paid out \$879 million in schedule 1 benefits. An additional \$604 million had to be provided for legislative amendments.

Table 2 compares the legislated increases for the last 10 years with the unfunded liability for the same time period. Employers have been required to pay retroactively, and this has led indirectly during the course of the years to the unfunded liability of \$5.4 billion. The mining industry's share of this liability is now estimated

to be \$372 million, an intolerable financial burden to one of the most vital and important contributors to the economic wellbeing of the province.

The problem with which we must all concern ourselves derives from the fact that the compensation plan, which was designed to compensate for work-related disability, funded by the employer, is now being utilized to attempt to solve a variety of society's ills. Because of this, the present costs associated with workers' compensation as administered by the WCB have escalated to the point at which they are literally out of control. The resounding impact of annual legislated increases, together with the threat of the unfunded liability, is placing an intolerable burden on the mining industry. Either these costs must be controlled or another funding mechanism must be instituted in the most expeditious manner possible.

Simply put, if Ontario is to have a healthy mining industry, this burden must be lifted. Industry has no control over the legislated increases, the rise of the unfunded liability and the metamorphosis and expansion of the system into a social net. This situation cannot go on indefinitely or we will risk the collapse of the whole system under its own weight.

Certain vital questions must be asked: Is it necessary to prefund the system? We think not. Should the costs be borne exclusively by the employer? We think not when there are so many factors contributing to these costs.

The mining industry is dedicated to the management of risk, as I have illustrated, and is prepared to work hard along with the Ministry of Labour, the WCB and labour to address these issues. To this end, may we suggest that such input be instituted on three levels: an annual exchange with the new corporate board, more frequent and formalized dialogue with senior board administrators and annual hearings by a committee of the Legislature.

One of the arguments we have made in many areas of the legislation is that the province should consider the cost impact and do a cost-benefit analysis of any new legislation so it fully appreciates the nature of what is being proposed and can determine the impact on the various parties involved. In this way, through dialogue with the government and with the other interested parties, we hope to make considerable inroads in devising and implementing a comprehensive method of funding that is deemed equitable by all the parties concerned.

Finally, I would like to add our support for the nine recommendations put forth by the Employers' Council on Workers' Compensation to the committee yesterday. Their recommendations document important issues that must be addressed in order to develop an equitable compensation system.

10:30 a.m.

Mr. Chairman: That is a thought-provoking brief, and I mean that. You are probably the first group to come before us that almost starkly puts the case that it is time to look at alternatives. Whether we agree or not, you have put that case quite starkly and very articulately.

A number of people have been nibbling at the edges of the whole question of whether the present way of compensating workers can continue. There are real differences about how it should be done, of course, but you are requiring us to confront those questions, and that is a good thing to do, in my view.

Mr. Gordon: I can understand industry and employers being concerned about the unfunded liability, but I think working people are just as concerned about the unfunded liability. I welcome the fact that you are indicating we should look at other ways of funding the Workers' Compensation Board. Obviously, some work is going to have to be done along those lines.

But I really do not know how you can so pointedly turn around and suggest that the problem of the lack of funding is related to occupational disease as a result of being in the work place. You say here, "Proposed modifications to the current system of compensation do little to increase the ability of WCBs to determine which disease-related claims are legitimately occupational in nature."

You make it sound as though the WCB is dealing with diseases that result from personal lifestyle and not from the work place. Yet we know that a lot of the problems that workers have with their health, whether it be lung disease or even some cancers, are a result of the mix with the work place, and I am surprised that you would turn around and seem to blame the workers for becoming ill rather than more pointedly going after a way in which you could take care of this underfunding.

I dispute your point that we are trying to solve a variety of social ills at the WCB. I think at the present time we are just beginning to move into a more enlightened mode than we were in even 10 years ago. I would like your comments.

Mr. Brehaut: I am not sure I got all the points. To start with, it is not our position that funding be

eliminated entirely. We feel there is a balance between the extremes that are indicated and that industry is incapable of assuming that obligation. When we look at the funding itself, yes, it is needed to some extent, and we suggest that we have to get together and determine to what extent it should be funded.

We carry on from that. There is no way we are blaming the workers for causing things. There is no doubt they are exposed to certain working conditions, work practices and work environment. Notwithstanding that, it was noted by the Macdonald commission that the present system is unable to accommodate the fact that many serious, disabling diseases have multiple causes. We are not denying that in certain circumstances the industrial environment will contribute to the cause, but we are saying there are other factors as well here and there are often matters of degree.

In moving to the enlightened mode, what I think you have done is to shift over to our area of comments on the social net. We believe this enlightened mode is to some extent retroactive to things in the past and that present companies are not capable today of picking up the costs of things in the past when there are increases to the system. We believe we can continue to maintain our obligations in the future, but to pick up continually the increases from this enlightened mode is something that society as a whole should address.

This is where we come back to suggest a broader system that does not necessarily point fingers but to which we all contribute. I am not saying that the worker contributes, but I think government has a role, when it does consider some of these things that have been thrust upon us, to sit back and not just use the workers' compensation system as a way of achieving other social goals as well. We feel it has gone beyond a direct industrial focus, and this is the reason we are suggesting extending the perspective of the system. We are not arguing with the right or the need for our employees to be properly compensated, but this whole subject has to be discussed and the issues identified.

Mr. Martel: I must confess that yesterday I suggested that, within 15 years, industry and society would realize we would need universal sickness and accident insurance rather than a WCB or an automobile insurance industry. I firmly believe that. I have been trying to say for a long time now that there are three things you need: an income when you are sick, a job when you have recovered and proper rehabilitation to

get into as good physical health as possible and to get something to go back to work with.

I find in the whole range of programs that none of them meets anyone's needs and that literally tens of thousands of people fall between the stools. We have more bureaucracy than you can shake a stick at, whether it is insurance companies, WCB, unemployment insurance or welfare. They all have their own bureaucracy, and I think it is going to disappear.

We are going to have to move to one sort of plan with one bureaucracy we can sort out, whether it is an industrial accident by way of assessment, a car insurance problem or insurance company injury. We can sort that cost out too and allocate cost, with society picking up another portion. I predict it will happen within 15 years. Dr. Elgie is safe. He still has a job for five more years. However, I think it is going to come.

The thing that still worries me about the mining industry, and I was looking at Denison and Rio Algom yesterday, is that the stats are overwhelming on the number of accidents in the 1984 report that we put together. There are some companies, and Albert will be delighted to hear this, that have improved their images as far as health and safety are concerned.

I wonder whether you gentlemen want to offer an opinion. Is it not time we brought Denison and Rio Algom under Ontario law so that we can zero in on them to reduce the number of accidents in that particular area, because it is quite devastating. One of the few real ways we can reduce cost to industry is to reduce accidents. I am not sure about industrial disease, because I do not think industry is paying for all the industrial disease that is being wreaked upon people today.

Mr. Brehaut: I am advised that they are now under provincial law. Mr. Campbell could perhaps comment on that.

Mr. Campbell: Anything to do with radiation is under federal law, but the operations of the mine are covered by the Ontario mining regulations, and they are totally under very complex arrangements between the feds and the province. When the dust settles, they are under Ontario law.

Mr. Martel: Are you telling me that today, when all the dust is settled, the Ministry of Labour or Ministry of the Attorney General in Ontario could bring them to court, as opposed to the Atomic Energy Control Board or the federal department?

Mr. Campbell: Yes.

Mr. Martel: So we will not hear any more excuses from the Ministry of Labour that it cannot do it.

Mr. Campbell: I can tell you here and now that the lost-time-accident rate in the uranium mines, according to the latest figures, is 75 per cent of the average for Ontario. They are doing better than the rest of the province.

Mr. Martel: Then I would like to see the rest. Let me see if I can dig out my statistics for the number of accidents. I had this done for me just in case I got into such a discussion. The numbers I have are higher than that.

10:40 a.m.

Mr. Chairman: While you are looking for that, I have a question to do with the unfunded liability. If we do not move in the short term, there is not going to be any dramatic change in the system. We are not going to go to a universal system that Mr. Martel talks about and to which you allude. In the short term, how do you think the board should deal with the unfunded liability? You were rather vague on that in the report.

Mr. Brehaut: Yes, and I guess I will remain vague because I do not have any instant answers to that. As we have suggested, we all have different opinions. We are more than willing to sit around a table and try to make our case of what we think is reasonable, to hear other people's positions and to come to something on this subject.

Mr. Chairman: Let me conclude on that point first. You mention you would like to meet annually with a committee of the Legislature and the board. Every year there is a statutory requirement that the board appear before a standing committee of the Legislature once a year. This year we have opened it up to have outside submissions as part of that annual report. I will not give you the reasons for that, but it happened because of the minority situation at Queen's Park. I think that is a good suggestion and certainly it has most of our support to continue to do that. I think it is a valid suggestion.

Mr. Gordon: You were not so vague when you not only implied but said quite clearly that the WCB was being used to solve a variety of social ills. You were not vague then. What you were saying was that the workers who had been injured or sick were the problem. I think you should be up front with us and state quite clearly how you think the underfunding should be handled.

Mr. Brehaut: I was able to be specific in the first case because there are specific examples. I gave two. In this case, again, we have to sit down and look at it. What we want government to do

when it looks at what it requires of us and the board is to look at the total situation, the needs of people and the abilities of a company, and to come to a better understanding of this issue. We do not believe we are the total contributor to a situation that a worker finds himself in when he is not injured and is coming back to a job. There is not an easy answer.

Mr. Gordon: Give us some suggestions.

Mr. Brehaut: I said earlier that we agree there should be some funding, but not to the full extent of the \$5.4 billion.

Mr. Gordon: From whom?

Mr. Brehaut: I am looking at the role of industries. Is it a case of do we go further into a general system? Then we are all contributing, government and industry.

Mr. Polsinelli: I was going to indicate that in dealing with the unfunded liability they have proposed one form of a solution, and that is that it becomes a pay-as-you-go system instead of a prefunded system. If that were the case, the actuarial fantasy of the funded liability, as it has been described by some, would disappear.

Mr. Brehaut: We did consider the pay-as-you-go system, and I guess we do not view that as being realistic. We can see the need for some funding.

Mr. Polsinelli: You indicate on page 7 of your submission: "Certain vital questions must be asked. Is it necessary to prefund the system? We think not." That is your submission.

Mr. Brehaut: I guess I backed off. That is essentially pay as you go, but we think—

Mr. Polsinelli: So you are rethinking that position in your submission?

Mr. Brehaut: Theoretically you pay as you go and it keeps us away from all these other arguments. What we are caught in is a little bit of a paradox in that we see industry being asked to pick up some of the cost for which it is not responsible. This is part of the thing that is adding to the cost of the system and therefore to the extent that funding is required. If we can remove that element or determine to some extent what portion accounts for this and come to something, we still would favour a pay-as-you-go system, but we are not sure if that is exactly politically palatable. We would gladly discuss and talk with people along those lines.

Mr. Chairman: You might also ask how a pay-as-you-go system would reduce costs.

Mr. Polsinelli: It would not.

Mr. Brehaut: To the extent that we are paying some extra money into funding at the moment, our costs in contributions are in excess of what our payments are at the present time.

Mr. Polsinelli: I do not think it would reduce your assessment. My understanding is that the revenue the board now has is not sufficient to meet its expenditures and reduce your costs.

Mr. Brehaut: Yes, that is true. You need to go further into the broader scheme of social disability to have an impact on our costs.

Mr. Barlow: On page 7, you suggested three possible exchanges, one being an annual exchange with the corporate board, which I think is a good idea. I think it should be from industry, as well as from labour and so forth. It should be an annual exchange of ideas and thoughts as to where we are going.

Then you suggested a more frequent, formalized dialogue with senior board officials. You have already explained how and why you are here. It is probably going to be an ongoing dialogue with members of the Legislature as well.

Getting back to the point made by several that costs should not be borne exclusively by the employer, I guess the only thing I can see you suggesting is that it should come out of the general revenue fund. Is this what you have in the back of your mind, that it should be funded from general revenue? In other words, all taxpayers in the province would contribute to the expenses of workers' compensation.

Mr. Brehaut: Yes, that is the bottom line.

Mr. Barlow: Without saying it, the general revenue fund is really what it boils down to as a suggestion of a possible alternative.

Mr. Brehaut: Yes, that is right.

Mr. Chairman: Mr. Ramsay and then Mr. Gordon.

Mr. Ramsay: Mr. Brehaut, on page 3 you make what I think is kind of an alarming statement when you say the workers' compensation system is basically out of control. I wonder if you can be more specific.

Mr. Polsinelli: Your colleagues have been saying that for years.

Mr. Ramsay: I am trying to show we are on side here with the Ontario Mining Association.

Mr. Martel: You finally joined us. The government was starting to worry.

Mr. Campbell: We must have said something wrong.

Mr. Martel: I think so. Somebody has.

Mr. Chairman: Mr. Ramsay, ignore the interjections by Mr. Campbell, because they are absolutely wrong.

Mr. Brehaut: I view something as out of control if I do not know where it is going. Equally, it does not achieve whatever objectives we all have for it. To that extent, I guess we viewed some of these legislative impacts as measures that maybe were meant to address certain problems and were implemented without determination of their impact on industry.

In an overall perspective, I would not call them knee-jerk reactions, as there were valid causes or reasons for doing them, but still the implementation, the recognition of the cost and why they were being done were not brought together into sort of a forum where all parties could discuss it, make contributions and maybe influence the final result.

I guess we have all come down to issues such as the objectives of some of the programs and how we can work together to get them done because we are picking away at them. Workers' compensation got good things going in the worker rehabilitation area. Some of our companies have very progressive programs in that same thing. There is a lot to be done together there.

Separately, we do not know where we are going. We are afraid of this \$5.4-billion deficit hanging over our heads because we do not know when it will land on us. That is what I mean by out of control.

10:50 a.m.

Mr. Ramsay: I think you make three positive proposals in your report. They are of a consultative nature, and I think that is probably a good start. I certainly would acknowledge those recommendations to the committee in order to incorporate those in our report. I think having annual discussions with the various groups involved is a good idea.

On page 4, you said the Workers' Compensation Board should only deal with occupational disabilities. That sticks out. My legislative constituency assistants and I have trouble with many of the cases we have to work on. We have trouble even trying to get compensation for what we think are work-related diseases, let alone other diseases and injuries that may have been affected by lifestyle, as you suggest. What sort of evidence do you have that shows the WCB is overstepping its mandate and acting as a social net?

Mr. Brehaut: I am not too sure it oversteps its mandate. Perhaps its mandate has been given

partly by the Legislature. That is probably one aspect. The other one is the difficulty of determination. You say "overstepping its mandate." The board is not necessarily overstepping its mandate. We are recognizing that some of the situations do have multiple causes. There may be lifestyle impacts as a contributor to a disease, illness or whatever. It may be the basic economy; the job is not there for a disabled worker to come back to.

Mr. Ramsay: Yes. However, Mr. Brehaut, I have never seen—I do not know whether other members have—a 100 per cent disability pension. I am sure they exist. However, this is not the case. It is rare that one sees it. The figures I usually see are 17, 18 or 20 per cent for disability pensions. I find the board is very strict for a lot of people in its determination of what is work-related along with some other factors.

Mr. Brehaut: I think there are two aspects here. One is that the percentage relates to the extent of the disability. The issue I am raising concerns the extent of the origin of the disability.

Mr. Ramsay: I would have thought the board would take into account what it feels is work-related in its determination. I have run into many cases in which there are congenital defects which have been discovered on examination of the X-ray in the case of a back injury. From what I have seen, this has been taken into account by the board doctors.

We have had to fight very hard many times because the congenital defect had not shown up before the time of the injury. I do not find that the board throws its money around in that manner. It is quite to the contrary. I know that expenses are high and there are a lot of pensions going out. If I may say something good for the board—and there are many good things—I think it is quite strict in its dispensing of pensions and discounting of things such as lifestyle and congenital defects. I think it is paying for work-related injuries only.

Mr. Brehaut: I guess we have a difference of opinion on that point. I am not saying the board is doing anything it should not. I am saying it has difficulty in judging. You and I have examples at either end of the spectrum. However, there are a number in the middle. I feel the board is giving the worker the benefit of the doubt. I do not disagree with that. I am saying we have to recognize that not all of the costs are necessarily ours.

Mr. Ramsay: What do you think of Mr. Martel's suggestion of an all-comprehensive

insurance program where you would obviously have some input?

Mr. Brehaut: I am personally in favour of it. As Mr. Martel said, I see so much duplication in the system in giving money away where it is not needed. The case that is my favourite is the family allowance.

Mr. Ramsay: That is a sacred trust.

Mr. Brehaut: I know it is. Notwithstanding the sacred trust, that, to me, is the best example of a system that is not focused. We do not get the money to where it is needed.

I would like to add this. You commented on our recommendations on page 7. We are not saying, in making those recommendations, that we do not have contacts with the WCB. We hope we can get it more formalized with a new board and new direction, especially with some of the new committees. The format of the committees means there is a lot more room for us to work together. When I say "work together," I am including labour, not just us and the WCB sitting down in a private room.

Mr. Chairman: Mr. Martel, do you have a question?

Mr. Martel: I left my figures. I am not going to go into it blow by blow. Mr. Campbell says he will share his figures with me. I told Mr. Campbell while we were chatting, if they are at three quarters of the level, I do not even want to know who the bad actors are.

Mr. Campbell: If you look at this chart, you will see there are not any.

Mr. Martel: There are not any?

Mr. Campbell: No.

Mr. Martel: I am glad you said that because—

Mr. Campbell: There are for other industries.

Mr. Martel: I have the mining health and safety data for 1983-84. Your record on the number of work orders issued by the Ministry of Labour for 1983-84 increased by 350 over 1982-83. I do not suspect the Ministry of Labour is just trying to pin you to the wall for nothing, but that increased. In other fields it went down.

What worries me is that I hear everybody saying we have got to cut costs, but, as I said to every industry group that was in yesterday, very few people talk about occupational health and safety. I worry very significantly that people deal with the two in isolation and do not realize that the ultimate savings or the reduction or the holding of costs will come as a result of meaningful health and safety programs across the province. That has far more potential for

reducing costs than any other factor. I am absolutely convinced of that.

I am not sure how it is going to help us in mining. What worries me about mining, and I see it in my own area, is the number of injured workers and the inability of the mining industry to take them back in. That is really contributing to the cost of workers staying out longer than they should—we heard that all day yesterday—of ending up on social assistance in addition to a very small pension, and the inability of the mining industry to take the older worker back in. If you are going to go with someone, you are going to go with a strong back as opposed to someone with a weak back. There is always reason not to take someone back.

One company I have written up has let 60 men go who have disabilities as a result of injuries in the work place. If you think your costs are high, that is part of the reason. They are not being retrained, they are not eligible or not getting back into the industry. I do not know how we deal with that problem.

I have written to the Minister of Labour (Mr. Wrye) to try to get some understanding from him. Unless we move in the field of rehabilitation, retraining and putting those people back to work, the costs are going to be borne to some degree by industry, whether it is mining or any other construction industry, because people who get injured on the job have to live.

I can tell you what I would do, faced with the prospect of losing a home because I had no income and no possibility of retraining. I would stay on compensation until hell froze over because I would not lose my home and I would not destroy my family. It is a social cost. That is part of the reason I would move to a total social-security plan, universal sickness and accident, because it becomes a factor with which I do not think the mining industry is in a position to cope today.

Mr. Brehaut: I guess you are making a statement.

Mr. Martel: No. It deals with rehabilitation and what you people can do.

11 a.m.

Mr. Brehaut: That is what I meant. The focus seems to be on rehabilitation. As a bit of an introduction, the injuries are not the only problem we face. We have what I call a personal health problem where a person has a heart attack or any injury off the job. It is not just an injury problem with which we as companies must deal.

In terms of what I have seen in the industry, I am proud of our record of taking people back and

finding jobs for them. We have examples right now of some of our companies developing innovative retraining or new retraining schemes. The board has a program. First of all, we have to make sure we are not duplicating efforts and get together on this equally.

The Ontario Mining Association is sponsoring a conference of all our compensation people and senior managers in Elliot Lake next month. We want to bring them together so we can learn what we can do from one another. It comes back to cutting costs, and costs can be cut in a number of ways. One of them, of course, is to reduce our frequency, which we have done. If we had not reduced our frequency, God only knows what the hell the numbers that were put in front of you today would have been.

If we can deal with things such as retraining, and, recognizing the points you have made, start to focus on this aspect, I hope we can make gains. We hope to take the experience of some of our companies and try to get the other companies to share things. This is one of the functions of the OMA. To some extent we come together to appear at forums such as this, but equally we are an organization for sharing our experiences, whether technical, safety or retraining. There is definitely more to be done, I agree.

Mr. Martel: Can I argue with you for a moment over your statements on pensions? I am with Ramsay on this one. I find that the board does not pay for much beyond—in fact, the meat chart is a disaster. It is a thing that does not take into consideration one's ability to work. One might get injured if one has an education and be able to continue to work, but if one has a 20 per cent or 30 per cent back injury, as a miner or smelterman or something like that, working around the furnaces becomes a totally different kettle of fish.

Yet we play around with this meat-chart rating that says you are only 20 per cent disabled. That is a lot of crap, if I can use the word. For an injured miner or construction worker, any of that type of heavy industry, a 20 per cent disability means you either get on the ball and retrain the worker or he is totally disabled. Some of us might go back to a classroom or something like that, despite an injury, and be able to work. They cannot. The board only pays for that percentage. You people seem to think they do not.

I find that strange, because all of us who fight these cases are driven around the bend by the rate of pension. I think there are 1,000 pensions in the province that are total. Most of them are paralysed from the neck both ways to get a total

disability pension from the WCB. I have met one in my lifetime as a member of the Legislature, and I can assure you he is not going to work.

How do you get around that? I am asking industry what they would do with those pensions. For example, with white-hand syndrome, when both hands are destroyed and that person cannot work in the cold any longer and he gets a 15 or 20 per cent disability pension with difficulty, what do you do with that individual?

Mr. Brehaut: Each one of us responds differently to these situations. There is a general principle—I cannot comment on the specifics—that if a person is disabled, the reason we have a compensation system is to compensate him and deal with these situations on a specific individual basis. The white-hand syndrome is one of great concern to me personally. I have worked as a miner and I understand this type of situation.

It is a case of trying to move the man off his job or convince him, first of all, for his own need to some extent, that he should either switch types of equipment or that the time has come to move off before he does damage to himself. The right of a worker to work where he wants to work is one of the problems we have to deal with. I do not see any solution to that. In the white-hand situation, I know of a couple of instances where workers have been moved into other jobs they are capable of. I can only comment on those specific cases.

Mr. Martel: Those are primarily the problems we see. We do not see the others. We have difficulty coping with the total ones. We do not know what to do with people like that. I do not like to fight for pensions because that is not the solution for a worker, although he has to be compensated for some loss of his ability to do things at home that he would otherwise be able to do.

I have heard people saying during the last couple of days, "Well, the man is back at work doing the same job, getting the same pay," but he does not do the same things at home many times. He is incapable and has to pay for some of them. I do not know what to do with those people. It is a problem we see all the time and are exasperated by, I assure you.

Mr. Brehaut: To some extent, what you see are the cases that do need your help in representing the people. What you do not see are the many cases we deal with effectively. Maybe we have a communication problem here. I am not at all discounting the validity of the ones you have seen.

Mr. Martel: That five per cent is what we have to deal with. It is the thing driving the unfunded liability.

Mr. Chairman: Are there any other questions for Mr. Brehaut?

Mr. Ramsay: A question that interested me came up in your last comment about the right of the worker to work where he wants. Are you saying there is a problem in the case where the company or the occupational health and safety committee of the company has discovered the job this man is doing is causing him injury and he knows that and has been informed and says: "I like the job. I am going to stay"?

Mr. Pirie: We have found with white-hand disease that people will not change that job even though all the evidence is in front of them. It is not common, but it does happen. In some cases I am familiar with, neither we nor the health and safety committee nor, in some cases, the staff representatives have been able to convince an individual to leave the job. Do not get me wrong; it is not a very common thing, but there have been incidents, although not many.

Mr. Brehaut: We find the government also has difficulty with this concept in its regulations. It came up in a working discussion I was having with the Ministry of Labour. After a certain number of years with white-hand disease, a person has a certain chance of moving to symptom A and, after so many years, to symptom B. It is progressive. In this case, the statistics said if a person is on a job for 45 years at these levels of exposure, he might have a chance of incurring cancer. The position we have in this environment is typically a training position and a person is lucky if he lasts two years.

We have one worker who likes the job and does not willingly leave. We say we will move him off. The response is: "Gee, you cannot do that. He has a right to that job." With white-hand you go to a person and say: "Look, you have been on the drill for 20 years. You have to come off or 10 years from now you are going to be really sorry."

Then you have to add in the smoking impact. I do not know what my rights are here. I could say no more smokers can get a job drilling because we know it is a contributing factor to white-hand disease. We know it contributes to other things that might develop as well. If you give me a free choice, I would not hire a smoker, but I have not come around in my own mind to knowing whether I, as president of my own company, have enough guts to take that step because I am starting to tell people how to live their lives.

Mr. Ramsay: Your first point is well taken. I am not sure a worker has a right to a job that causes him injury and maybe that is what we

should be looking at. Thank you for bringing that to our attention.

Mr. Chairman: If there are no other questions, I would like to thank the Ontario Mining Association for its presentation. In some ways, it was a watershed presentation because of the suggestions you made, particularly the suggestion that we look at alternative systems. Thank you.

Mr. Brehaut: Thank you, Mr. Chairman, and committee members.

11:10 a.m.

UNITED STEELWORKERS OF AMERICA, LOCAL 1005

Mr. Chairman: The next presentation is from the United Steelworkers of America, Mr. John Martin. Copies of the brief are being distributed now. I think most members have them. Welcome to the committee, Mr. Martin. If you would introduce your colleagues, we could proceed.

Mr. Martin: On my immediate left I would like to introduce the president of Local 1005 of the United Steelworkers in Hamilton, Ray Silenzi. Farther to my left is Lorne Heard, the national health and safety officer for the national office of Steelworkers. On my immediate right is Mr. John Balloch, health and safety divisional chairman for Local 1005 in Hamilton. I am John Martin, compensation chairman, Local 1005 in Hamilton.

If you would permit, Mr. Chairman, we would like to read through the brief. If the committee has any questions, we will answer them at the end.

Mr. Chairman: That is the way we have been doing it.

Mr. Polsinelli: Before proceeding with the United Steelworkers, it appears this is a rather lengthy brief and we still have another presentation from the Welland District Injured Workers Association. Perhaps we could make alternative arrangements.

Mr. Chairman: Mr. Polsinelli, a lot of the thickness of the brief is due to the attachments at the end. Why do we not go through and see what time we have? Go ahead, Mr. Martin.

Mr. Martin: The United Steelworkers of America appreciates the opportunity to present comments and recommendations to the standing committee on resources development on the matter of workers' compensation in Ontario. While our brief deals primarily with the areas of claims adjudication, vocational rehabilitation, board doctors and industrial deafness and dis-

ease, we hope submissions given to the committee dated July 25, 1984, and July 31, 1984, are still being considered.

We appreciate that some of our recommendations have been utilized but still believe Bill 101 fell far too short of our expectations. We hope the second phase of Professor Weiler's report will be directed to the needs of injured workers and not to employers' groups. The following comments and recommendations should be viewed as constructive criticism because there is a definite need for change in these areas.

On review of the claims adjudication level of the board, we find the intent and purpose of the act has been lost. The "no fault" principle is no longer in use, "the presumption and benefit of doubt" clauses are seldom used and far too often claims are denied on an employer's verbal dispute. There are unnecessary delays in the adjudication of claims and even longer delays in the adjudication of recurrences. Attending-doctors' reports are overruled by board doctors who have never examined the worker.

Basically, the Workers' Compensation Act has deteriorated from a workers' act to a cheap employers' insurance fund, hiding behind the policies of the WCB. When we examine board policy, it is evident the direction of the board is towards employers and away from injured workers. An example of this can be found in the claims adjudication branch procedures manual, document 33-23-02, page 2, paragraph 9, under the heading of "Administrative Denials."

The onus is on the worker to prove the accident happened. There is very little or no consideration given for presumption and benefit of doubt. The adjudicator must follow board policy document 33-02-01, page 1, and the five-point check system, document 33-02-14. The documents are attached. Section (d), "Proof of Accident," is where the clout of the employer is taken over the injured worker.

However, when we review section 79, directive 1, "Benefit of Reasonable Doubt," dated December 15, 1978, we find that board policy as stated in this document is not being applied and in fact has been revised, therefore causing deterioration to the original intent.

It has been our experience that these policies are applied at the claims review branch and at the appeals branch, but very seldom are they applied by the initial or continuing adjudicators.

Delays in adjudication of claims in our opinion are caused by the following:

1. Insufficient number of adjudicators; for example, failure to replace adjudicators who are off sick or on vacation.

2. More emphasis is put on the employer's verbal dispute than the word of the workers. Proof of this shows up in the appeals branch when testimony has to be given under oath. As well as that, workers have to provide names of witnesses.

3. Length of time required to investigate. For example, there is no replacement of investigators when off sick. I ask you to review an incident in the Hamilton area office, where we had to bring to the attention of the chairman of the board that there was a problem and workers were suffering unnecessary delay. That is just one example that we are prepared to give this committee.

4. There is no automatic system of claim review. Injured workers, injured workers' representatives, doctors or employers have to initiate action. Claims remain dormant until such action is taken.

5. Adjudicators are continually being moved from section to section, again causing unnecessary delays.

Our recommendations are as follows:

1. The board must ensure that there is an adequate number of adjudicators to handle the work load.

2. The board should train employees from other sections of the board in the field of adjudication, therefore creating an immediate source to draw from during vacation periods and when adjudicators go off sick.

I will point out at this time that the board will tell you that they do have such a pool, but I will tell the committee that that pool is far below the needs of the adjudication levels of the board. Just recently I talked to a couple of team co-ordinators, and they are covering up for two or three people in their section who are off sick. I stress the fact that the pool, if it is in existence, is not doing the job adequately to meet the needs of the adjudication branch.

3. The board should establish an automatic review mechanism for review of outstanding claims and eliminate the administrative denial policy. Why do we need an administrative denial policy when it is a worker's act? If the submissions of the employer are taken, the board administratively denies the claim at the adjudication level. As far as we are concerned, that is not in keeping with the intent of the act.

4. The board should scrutinize the number of claims that are allowed at the appeals branch and take corrective action to reduce the high number of appeals. By this I simply mean that if you look at the percentage of allowances at the appeals branch, all the points we are making here today

are true. Why is there a need to spend all our time and money going to the appeals level when, if the board would make sure the policies are done right in the initial adjudication, we would not have to go appeals hearings?

5. The board should ensure adequate coverage in the investigations area and ensure immediate replacement of investigators during their vacation periods and sickness.

6. The board must reiterate the presumption and benefit-of-doubt clauses at the adjudication level. Currently you will find very little. The adjudicator will apply benefit of doubt. Contrary to what the previous presentation stated, that does not exist. The benefit of doubt has to go to a team co-ordinator for approval first, and it is used very seldom, unless the worker can bring witnesses forward or a representative can show the board that the proof of accident is given by the worker. That was not the intent of the initial Workers' Compensation Act.

11:20 p.m.

7. The board must establish a policy that eliminates the need to move adjudicators from section to section. You can phone today or tomorrow and you will find there is another adjudicator handling your claim. The claim is delayed for another two days while that adjudicator pulls it from where it is and we have unnecessary delay.

8. The board should take attending-doctors' reports at face value in initial claims, and they should review if the claim extends beyond the recognizable period for allowance. That is not being done. The form 8s go to the board, which sends them to a section medical adviser, and if that doctor says on paper that he feels there is a compatibility or the injury is allowable, the board will allow it.

The recent policy regarding workers' and employers' representatives, document 33-07-16, is a much-appreciated change, and it is hoped proper use of the policy at the adjudication level will help eliminate some of the delay in the adjudication of claims.

Brother Silenzi will now carry on with rehabilitation.

Mr. Silenzi: Regarding rehabilitation, it is our opinion that the vocational rehabilitation division of the board is only concerned with the assessment and placement of injured workers to finalize the claim. Very little if anything is done to assist an injured worker through the social, economic and mental change needed before he or she can successfully enter the job market. Evidence of this is in abundance; all one needs to

do is review any admitting or discharge report from the hospital and rehabilitation centre in Downsview. Again, the board has allowed the original intent of rehabilitation to deteriorate.

Upon review of vocational rehabilitation division policy documents 44-03-01 and 44-03-02, we find the intent and philosophy are not being carried out. Rather, injured workers are sent to the hospital and rehabilitation centre for disability assessment to determine the length of continuing payments or to finalize a claim.

Rehabilitation counsellors first ask an injured worker to prove his sincerity by conducting a job search. Where is the assistance the aforementioned document speaks of? Currently, the board has launched a "Back a Comeback" program, projecting the image that injured workers have been rehabilitated. In reality, the injured workers have been told that they are capable of returning to a modified job and should the accident employer not have suitable employment, they must conduct a job search. This is not a rehabilitated worker as defined by the board.

There is no mention of the services available to an injured worker as laid out in board policy document adjudication branch manual 33-34-03, Vocational Rehabilitation Services Provided. That document is attached.

Rehabilitation counsellors have to follow direction from the head office in Toronto. It is obvious by the latest campaign that the policy-makers in Toronto are still geared to getting workers off their books. Although this is the aim of all concerned, we should be directing our sights at a long-term solution. These campaigns prove to be a short-term solution where employers hire injured workers because they can get free labour, and in most cases workers revert to the board for benefits.

Academic upgrading and retraining are very hard to get because vocational rehabilitation counsellors view age, language and lack of education as barriers to such programs. There is a lack of co-operation and acceptance among labour organizations, injured workers' groups and the rehabilitation division. Employers are permitted to play a major role in rehabilitation, yet their only concern is to reduce assessment costs.

The economic climate in Ontario today adds to the problem, and the only way to approach vocational rehabilitation is to have joint co-operation from employers, unions, injured workers' groups, the Workers' Compensation Board, community colleges and the medical profession.

Once this initiative is taken, the true definition of vocational rehabilitation can be addressed.

Our recommendations are:

1. Joint committees composed of employers, unions, injured workers' groups, the medical profession, the Workers' Compensation Board and community colleges to be established in all major areas of Ontario.

2. Regional committees to start up vocational rehabilitation clinics, which shall be funded by the Workers' Compensation Board, with the purpose of addressing the mental, physical, academic and socioeconomic needs required for the job placement of injured workers. In addition, the hospital and rehabilitation centre in Downsview should be decentralized.

3. Orientation to change programs available from community colleges should be adopted as these programs address the above concerns.

4. The vocational rehabilitation division of the board should reiterate its policy found in claims adjudication branch document 33-34-03 and vocational rehabilitation division policy documents 44-03-01 and 44-03-02.

There is a definite rationale behind the above recommendations, and that is to eliminate the distrust that injured workers have of the board and to promote a true rehabilitation system rather than one designed to save costs.

It is a well-recognized fact that labour opposes the power bestowed upon board doctors. They have the power to deny claims based on a paper examination. In the initial claims adjudication process, one cannot help but wonder about the no-fault principle of the board when their doctors have to approve a claim before allowance is accepted.

Yet when we compare the board's policy regarding medical documents to that of any private insurance company, we find the attending doctor's report is taken at face value, benefits are paid and review of the claim occurs if the disability goes beyond the recognizable period. However, under the Workers' Compensation Board, the section medical adviser must review the file and in many instances recommends denial.

In cases of pension assessments, the board doctor examines the injured worker briefly, reviews the file and makes a recommendation based on the meat chart.

The system is inhumane and should be abolished. Injured workers should have the right to choose a specialist of their choice, and examinations should be conducted in the community where the worker resides. All medical

examinations requested by the Workers' Compensation Board should be arranged through the attending physician. The board should establish a panel of medical practitioners separate from the board to render decisions on medical issues in dispute. This panel should be available to all levels of adjudication.

John Balloch will continue on from there.

Mr. Balloch: We are disturbed at the way claims involving recurrences are delayed for as long as three months and up to six months before a decision is made. When a decision is made to deny a claim where a permanent disability pension is involved, it is quite common for the claims review branch to request a pension assessment. If the injured worker's pension is increased, he is told that he is at his permanent disability level and that total temporary benefits will not be paid.

How can the board justify such a position when the examinations take place far after the initial layoff date? This procedure should be eliminated and replaced by a system where the board requests the attending doctor to have the injured worker seen by a specialist as close to the layoff date as possible.

It is our position that where overpayment results from a decision made at the appeals branch, the overpayment should be recovered from administration. Injured workers should not be made to pay back overpayments as it is not their fault that benefits were incorrectly paid. That decision was made by the adjudication branch and supported by the claims review branch.

There must be protection given to an injured worker should an employer invoke his right under section 21 of the act. An injured worker should not suffer financial hardship because of an appeal made to the tripartite board regarding medical examinations requested by the employer under section 21.

Concerning industrial deafness and disease, we recommend to the committee that the criteria for exposure to hazardous noise be amended, reducing the level of 90 decibels on the A scale to 85 dB(A). This is in keeping with current guidelines where the board recognizes that industrial deafness can result from long-term exposure to hazardous noise between 85 dB(A) and 90 dB(A), and many appeals have been allowed on that basis.

We recommend to the committee that in cases of industrial disease, the injured worker have the choice of specialist in that particular disease in his/her area of the province, that the board use an

independent panel of medical practitioners where a medical dispute exists in a claim and that this panel be available to the adjudication level of the industrial disease adjudication section.

Due to the very lengthy time taken to adjudicate industrial deafness claims, we strongly recommend the following:

1. An injured worker should choose an ear specialist recommended by his or her family doctor who practises in the area of the province in which the injured worker resides.

2. Industrial deafness adjudicators will make their decision based on those examinations.

3. Should the board request a further examination where a medical dispute exists, the board will request that the attending doctor set up an appointment for the injured worker to be examined by another ear specialist.

11:30 a.m.

The use of strictly Toronto-based specialists is the main cause of delay on the adjudication of industrial deafness claims. Should the board feel that some communities do not have the equipment necessary to test properly for hearing loss, then the board should purchase and provide the equipment needed to meet those needs, thereby eliminating the need for injured workers to travel constantly to Toronto.

Although we did not cover every issue concerning us on workers' compensation in Ontario, we feel the criticisms and recommendations made will be closely reviewed and implemented. The United Steelworkers of America has always been involved in representing injured workers in Ontario, and we sincerely hope you will look favourably upon our recommendations to help workers in Ontario obtain one of the fairest compensation systems in the world.

Mr. Martin: At this time, Mr. Herd would like to speak on section 21, further to what the brief outlines.

Mr. Herd: We have some concerns under section 21 as it is set out in Bill 101. The problem arises in three areas on the question of who will deal with this section, whether it will be the board proper or the new tribunal.

To some extent, a more serious problem is the worker being left in jeopardy in a sense, because if he refuses a direct order by his employer, that could get into a labour relations problem. On top of that, he may be applying again through the employer's application for a hearing before the tribunal. Again, it is a bit of a problem; a complaint is registered before the tribunal within a 14-day period, but the problem is knowing when that might or might not be heard. If an

individual were disciplined by his employer for a couple of days for refusing to take a medical examination, say, he could have two fields of problems. I do not see, in this legislation, any protection for him during this interim debate, if I could use that term.

The other thing that goes hand in glove with all of that is the difficulty you have if you go the labour relations route. You can argue it and you may lose, because it depends on how the arbitrator might look at it. Suppose you go on the other side and the guy did get the two days off or whatever. He is caught in a squeeze play again when he goes before the tribunal, because I do not see the statutes allowing it to give full-benefit recovery for the two days he got for discipline on an issue that should have been appealed by the employer.

It is a wide-open nightmare for us. We have not had a problem because it has only come into place as of October 1, but I felt it would be fair to raise these issues when we were making our presentation to you. In that way they are clearly on board and when we come back with these problems, we are on record as raising them with you.

Mr. Chairman: You do raise an interesting point. When Mr. Ellis, who is chairman of the appeals tribunal, was before the committee last week, he indicated the appeal process could take six months. So even though there is a 14-day period at the beginning, there is a long period after that before it would probably be resolved. It is appropriate to red-flag that problem.

Mr. Martel: I have an answer on that because I raised that on the day I spoke my concern. Dr. Elgie indicated it would be looked at. We are supposed to get an answer back on how section 21 is going to work. I think that was the undertaking.

Mr. Chairman: Are there questions by members of the committee for the steelworkers?

Mr. Martel: I am not going to ask questions because much of what I said is contained in here. The thing that angers me most is the rehabilitation sector. I raised the difficulties with rehab and got some of the glossiest answers you could imagine. When I suggested that people were sent out with a newspaper to find a job, I was pretty well told that does not happen.

People might want to read Hansard when it comes out, because I found the responses I received offensive. Having dealt in this field for a number of years, I get offended when somebody tells me I am stupid. They did not say it in that many words, but I know what is happening to

injured workers in my area about retraining and rehabilitation. When the board representative says it costs almost \$750,000 to send 305 workers back to school to train them, is that not magnificent? There are those of us who have had the good fortune to be able to attend university. If we took the cost for 305 of us, healthy at the time, to go through university, it would be a hell of a lot more than \$750,000.

We are not prepared to look at retraining injured workers in the same light and I find that an offence to my sensibilities. Many of us in this Legislature have had the good fortune to go to university. I agree with you there is more to it than simply handing them a sheaf of paper to go and look for a bloody job, or as you put the other one so nicely, "a job search". We were told a job search is not much of a way of doing it any more either.

We all know that if you want to stay on rehabilitation or a supplement, what you do is provide a list of employers you have been to who have turned you down. It certainly enhances your ability to stay on a supplement. It does not do much to retrain you, but at least it keeps bread on the table. All of us have had those experiences. I am glad you put that in because I think that holds the key to many of the problems we have.

Another is where the doctors are overruled, and I think you make a further key point in your report. If the primary level of adjudication were as competent as it might be or should be, most of us would not have nearly the number of cases to deal with. You make a series of recommendations to overcome that difficulty. I hope we put some of them in our report and that ultimately the board adopts them, because I think primary adjudication and rehab hold the key to many of the problems we have before us constantly. I commend you for your report.

Mr. Henderson: I want to comment on the dilemma of the physicians. I am a physician and I have occasionally been involved in cases having to do with the Workers' Compensation Board. I believe the issue is more complex and complicated than is often recognized. I want to make a couple of comments and then agree with something you said in your brief.

The family physician has a particular position and expertise to bring to bear because he knows his patient and knows the kinds of factors and disabilities that may be difficult to objectify in various kinds of medical investigations, but which nevertheless are very real and ought to be considered seriously. However, the disadvantage is that the family physician cannot be other

than biased in favour of his patient, or sometimes against his patient depending on the relationship they have. I think it is very difficult for him not to be biased in one way or another.

Having said that, it is also true that I do not believe for a moment the WCB doctor can be unbiased. We discussed this in some detail at another committee on which I sit concerning some particular cases we were looking at. Any physician who is used to operating on behalf of a patient or on behalf of a referring physician surely is influenced by the fact that his employer or whoever has a vested interest in the situation. Therefore, I do not think for a moment that a WCB doctor brings an entirely fair and balanced perspective either.

I have made the argument for having a panel of medical practitioners separate from the board to render decisions on medical issues that are in dispute, and I like your presentation of it here. Having that kind of group would be different from having simply the patient's own physician. It would be a group of people who would come to have some expertise and experience in this area and who could be as close to being objective as anyone can be. They would also bring a familiarity with WCB issues and cases. The WCB physicians can bring that, but on the other hand they are compromised by what I view as their lack of objectivity. I like the proposal.

Mr. Chairman: I think most members know that under the new system a medical panel is going to be available to the Workers' Compensation Appeals Tribunal.

Mr. Heard: I would say you are right; it is technical. However, the medical profession has a role to play in this whole area. I can tell you from a lot of experience that one of the most difficult problems I have is finding doctors who have been very busy and who did not record that the guy said he had had an accident, or who put down the left knee instead of the right knee. Those become very tough issues when you get before the board: "It was not properly reported. That is what the doctor said. That is it."

That makes it very difficult for us to say the doctor was wrong. If you can go to the board and can show the scar is on the left knee when the doctor said it was on the right knee, you are on pretty safe ground. Then you have him and he is going to have to listen because it is the other knee. It is almost beyond belief that you have to get to that point in a hearing. To me, that should never happen in the first place. It should be possible to clarify it easily by a phone call, but they get very touchy about that stuff.

I have gone around the circle. I had one recently where an individual perhaps did not follow the rules absolutely. He went to his family doctor who was very familiar with his case. The guy had a kidney problem and had had it for years; there was no question about it. On the particular day the guy went to his doctor he had had an accident in the plant and had assumed it was just his back that was giving him trouble. He has lost that case. The board does not accept that even though he did not report directly to the physician that he had an accident at that time his whole case could still be credible. They turned it down, basically on credibility.

It is absolutely astounding those things happen to us. I have not finished with that. I am just trying to relate that we have a problem on the other side. Sometimes things are not reported that should be reported. When we get to it, it is very hard for us to go back, pick up the record and ask, "Did the man say this or this?" That makes it very hard.

When a doctor is interviewing a patient it is imperative that he should ask, "Did you have an accident?" He certainly has back strain, and the doctor found that medically, but how did he get it? The doctor fails to ask. I run into that so many times. It frustrates me. I do not know how to get at the medical profession on that.

Mr. Henderson: I agree with what you are saying. That is another reason the point you make deserves to be underlined. Perhaps the concept deserves to be expanded. The physician who does an occasional one of these does not know and does not understand a lot about the politics involved. When I was doing them I sure as heck did not know what I now know about some of the innocent little innuendoes there might have been in my wording that could be tremendously important to the way a case is eventually decided.

I am asked, "Is this fellow ready to return to work?" I call somebody at the board and say: "I really cannot make a decision about that. It is something that has to be worked out in a job situation." As a physician, I can make some comments about signs and symptoms and so on, but the board will then nudge me, "Try to make some kind of decision." I will say, "I do not want to do something that is going to injure this fellow."

Whoever I am talking to might say, "Give the best opinion you can and of course we will be flexible and will consider all the evidence and information." Perhaps I am then nudged into making some pronouncement or statement that I was very reluctant to make. Maybe a heck of a lot

turns on little more than a guesstimate I might have made.

Mr. Heard: Absolutely.

Mr. Henderson: That is an example of the difficulty on one side, and the difficulty can be equally well documented on the other side. There is a lot to be said for having a group of physicians who know and want to do this kind of work, who have as much impartiality as they can be given and who can be fair, and yet can have expertise in what is almost a specialty practice.

Mr. Martin: I have two more comments. The first is about what is happening with what now is called the decision review branch. I will read a decision I received from the branch on September 23.

This worker did not ask to be assessed by the board. I will read what was stated in the letter to me denying the claim. "The claims adjudication branch has referred this file to the claims review branch to consider the request for temporary total disability benefits from January 8, 1985, to April 1, 1985. They also have asked us to address the issue of your objection."

It was the review group that asked, not the worker. This is becoming more and more evident at the board. This fellow was not even assessed for nine months after the fact. Then they turned around: he was back to his job, his condition was stable, no increase; therefore they are not paying him.

In another case I dealt with recently the guy was increased. The board turned around and said: "You are now at your permanent disability level. We are not going to pay you temporary total benefits." Where the hell are these people coming from? How can you examine a man who has gone back to work with his condition stabilized and tell him he was not totally disabled nine months ago? That is a point I would like to bring up.

Another point I would like to bring up is about hearing claims. I did not supply it in the reference documents. It is subsection 2.2 of section 122 on hearing loss claims. We are finding that when we go to the appeals adjudicator level we are winning 99.9 per cent of the claims from the steel industry and mining industry because they are applying 2.2. However, if it were applied at the bloody industrial deafness adjudicator level we would not be spending our members' money, the board would not be spending its money and the worker would have his pension a year before the claim went that far.

We try to be as polite as possible when we come here. Frankly we are not here to give you

philosophy. We deal with this on a day-to-day basis and these presentations are given on fact, not on philosophy. For the United Steelworkers of America, I am prepared to meet Art Darnbrough and anyone else from the board to discuss the inadequacies of the system as it now exists. We will take them on in fact and not in philosophy. I trust this committee will carefully consider that the United Steelworkers is a high-profile organization representing workers and that its recommendations are not to be taken lightly.

I thank the chairman and members of the committee for allowing us to come here today.

Mr. Chairman: Thank you for your presentation. The committee will be submitting a small report and we will make sure you get a copy of it.

The next presentation is by the Welland District Injured Workers' Association. Welcome to the committee. We are pleased you are here. Please introduce yourselves and proceed.

WELLAND DISTRICT INJURED WORKERS ASSOCIATION

Mr. Lunardon: I am Roland Lunardon, president of Welland District Injured Workers Association. On my left is the secretary of the group, John Severinsky. We have a submission dated October 9, 1985, to the resources development committee of the Legislative Assembly on legislative improvements to the Workers' Compensation Act.

11:50 a.m.

We are pleased with the improvements that Bill 101 provides to the injured workers and their families. We are going to speak to you only in regard to the negatives in this bill and how the compensation system can be and, in our view, must be improved to better serve the past and present employees in Ontario who may be injured in the work place.

Pension supplements: Bill 101 specifically states that receipt of Canada pension plan benefits is not a bar to receiving Workers' Compensation Board pension supplements; however, this applies only after April 1, 1985. The changes should be retroactive for all injured workers who were denied supplements solely because they received CPP benefits.

To receive CPP benefits, a person must be incapable of regularly performing gainful employment; but to receive WCB pension supplement, a person must be co-operating in a rehabilitation program and/or accept suitable work. It is not possible to be incapable of gainful employment and at the same time be involved in

a rehabilitation program and be suitably employed. CPP is paid for by the injured worker and his employer. It should not be used as a penalty for being injured.

We do not believe CPP benefits should be deducted from supplements because life for the injured worker has to go on. The same living expenses have to be met as when he was employed. Even the total of CPP benefits, WCB pension and supplement does not put him financially at the position equal to his net wage when he was working. Mileage in looking for future employment is not a usual expense and should be added to the net level.

A family should not suffer because of these extra expenses. A less stressful environment is conducive and necessary to promote a progressive attitude in the injured worker as well as to make his family more supportive. Employers are more inclined to hire well-adjusted, happy persons than those looking and feeling depressed and beaten. This is the time the board should be very supportive and allow the injured worker the maximum in opportunity.

Pension supplements should begin at age 50 and be automatically brought to and kept at the old age security pension level at age 55, after every effort has been made by the board to get the injured worker into a suitable job. Most employers are unwilling to hire a person over 50 years of age. Progressive reform in this area would be supportive and conducive in providing a positive attitude to seek employment in the hope that a job opportunity may arise. The best solution would be to extend this concept to all qualified injured workers when burdened with a combination of disability and socioeconomic factors, including age, language, education and geographic location problems.

Permanent disability payments: with regard to the process of establishing the payment rate, 75 per cent of gross pay was preferable to the 90 per cent of net. The best solution now is to use 100 per cent of net earnings as the base. By removing the financial stress involved with being an injured worker, he and his family will not be victims of depression that is difficult to cope with and surmount. Many families are broken by the stress of loss of health, income, security and a way of life, plus constant frustration.

Pensions for pain and suffering: there should be a positive response to the requests of labour and injured workers for a two-part permanent pension compensating workers for pain and suffering and wage loss. Injured workers have to suffer with pain 24 hours every day. Loss of

income and the resulting insecurity aggravate the already painful lifestyle. Weiler's wage loss proposal in the white paper would double all the stress and problems of the present system. Injured workers would be further economically depressed. Specifically, we are very much concerned with and definitely opposed to Weiler's wage loss proposal.

Cost of living adjustments: ad hoc pension increases, which are a result of so much time, effort and expense, have not stopped the erosion of the injured workers' pensions. More and more are sliding on to the welfare rolls as a result. It is long overdue that we have automatic annual cost of living increases tied to the average industrial wage and retroactive to the day of injury.

To cite just one example, Workers' Compensation Board claim C-10007390 awarded 25 per cent permanent disability in 1974 based on 1968 earnings. With all the ad hoc increases, this pension in 1985 is only \$231.

Survivors' benefits: Bill 101 has improved survivors' benefits where death occurred after April 1, 1985. Families which had a death occur prior to this date have been sliding into a welfare situation gradually, losing their possessions before the children are self-supporting. These families should be included in the proposal of the combination of lump sum payment and monthly benefits as set out in section 36 of the act. Their needs are the same. This benefit should be based on 75 per cent of gross or 100 per cent of net.

The meat chart: the system must be humanized. The meat chart under which the injured workers are treated like cattle being led to slaughter must be done away with.

Rehabilitation: rehabilitation should be a separate organization which would have injured worker and trade union participation. Rehabilitation personnel should be independently trained and not employed, influenced and housed by the WCB. Employers under whose employ the worker is injured should be responsible for his rehabilitation. Injured workers should be on the rehabilitation committees and councils and be trained in that capacity if necessary, for they know best the needs, frustrations and stresses of being injured.

Rehabilitation should not be concentrated on light duty or modified jobs that beg definition and do not exist. Rather, injured workers should be retrained in skills for the rapidly changing technologies within their capabilities. Progressive reform such as this would improve the injured worker's rights, instead of attacking the worker, and would make him more aware of the

opportunities that could put him back into the work force.

WCB doctors: medical decisions affecting the injured worker must be made by his own doctor and/or specialist. The doctors employed by the board are callous, insensitive, indifferent, cruel and degrading in their attitudes to the injured workers. They are unaccountable and protected by the board, so play God with the injured worker's life. All too often the board doctors overrule the injured worker's doctors and specialists, even though these may have more training and specialization in a particular field of medicine. This is particularly true in cases where diagnosis is difficult, such as in lower back injuries.

One example is WCB claim C-10007390. The claimant has his orthopaedic specialist, Dr. Auben, send the board his medical report and opinion. Dr. Auben's report is ignored. Frustrated, the claimant writes to the then Minister of Labour, Mr. Ramsay, as to the status of his claim. On February 25, 1983, Mr. Ramsay writes to the claimant in part:

"I have been advised by the board that the current status of your claim is as follows: the board has one orthopaedic surgeon and eight other fellowship surgeons at the head office. Dr. W. E. Young has been doing permanent impairment assessments for more than seven years and would thus be more familiar with this aspect of medicine than Dr. Auben."

Increasingly frustrated, the claimant goes back to Dr. Auben, who on April 24, 1984, writes the following in his report: "I have been an orthopaedic surgeon since 1968, practising in the province of Ontario in an active orthopaedic practice and have fulfilled all the requirements of training in Toronto and have passed my fellowship examinations without any problems. I have had no problems with my practice in orthopaedic surgery for the last 16 years.

"Therefore, I think that my judgement should stand about the claimant, and I know that he has been seen by Dr. W. Young at the WCB. Dr. Young is really an internal medicine specialist, having worked for the board for four years, and before that he was in practice for 11 years in internal medicine."

12 noon

Mr. Martel: Is that not wonderful?

Mr. Lunardon: Beautiful.

The letter goes on: "I think that an orthopaedic surgeon who has done his training in Toronto and who has been in active practice for 16 years

should have a say regarding the way his patient's disability is treated."

Dr. Auben quotes the above-quoted paragraph from Mr. Ramsay's letter and then continues:

"I would like to have the Ombudsman ask the Minister of Labour why he came to that conclusion. From his letter, I think that he concludes that an active practising orthopaedic surgeon for 16 years has an opinion which does not stand as good as an internist who has been working for the WCB for four years and doing internal medicine for 13 years prior to that. Therefore, I would be happy to have the results of the meeting with the Ombudsman."

Mr. Severinsky: Instead of systematically, earnestly and compassionately trying to diagnose an injured worker's particular injury, the injured worker is very often hassled, coerced, cajoled, and sometimes forced into situations and activities that can only make his injury worse. I will give one more example.

WCB claim number C13861606: claimant has accident May 14, 1982, reports it to foreman and first aid where he is given heat treatments. He continues working until May 26, 1982, when he lays off work because of severe pain. On May 27, 1982, he sees his doctor, Dr. A. Kiss, who sends the board his report.

On May 28, 1982, the following day, the employer, Inco Ltd., sends a letter to the board stating that the claimant laid off work due to previous condition, covered by claim number 6211488. There is a previous injury. The company states that the claimant said there was no new accident.

On June 29 claimant replies to the board's questionnaire, clearly explaining the accident. In the meantime, claimant borrows money to live. The first cheque from board is on August 27.

Claimant is admitted to WCB hospital in Toronto on November 16, 1982, released on December 1, 1982, and told to return to work in February, 1983. Diagnosis: degenerative disc disease, Dr. Teskey.

On February 17 claimant is examined by Dr. Szabo, orthopaedic surgeon in Welland, who sends the board a report: "This man is not in a condition to return to work."

On May 3, 1983, claimant is again admitted to WCB hospital under care of Dr. Nguyen. Admission diagnosis: lumbar strain. He is discharged May 16, 1983, and told to return to work on June 1, 1983. Discharge diagnosis: lumbar strain—background of degenerative disc L5-S1 with facet joint syndrome.

Claimant is not getting better and relying more and more on pain killers and sleeping pills. He returns to work June 1, 1982, and is laid off June 3, 1982, because of increasingly severe pain and irrational behaviour.

Claimant is again examined by Dr. Szabo, who sends the board his report: "I think he should stay off work and rest. I have doubt that he will ever return to his job permanently." That was on June 21, 1983.

Claimant is again admitted to the WCB hospital on August 17, 1983, under care of Dr. Johnston. Admission diagnosis: chronic mechanical low back pain without objective neurological signs in his lower extremities; chronic reactive depression. He is examined by an outside specialist, Dr. Kay, who bluntly tells him he has two choices: return to work with his pain or take his pension.

Photocopy of Dr. Kay's report states his condition as "...obvious narrowing at the 5-1 level with anterior lipping and slight retropseudolisthesis"—I hope I got that right—"and some mild degenerative change in the facet joint." He is discharged September 23, 1983. Diagnosis: degenerative lumbar disc disease. He is told his benefits will be cut by 50 per cent on November 30, 1983.

He is again examined by Dr. Szabo, who sends the board the following report: "We got an answer from the compensation board stating that he would be able to do light duties, so his benefits are only 50 per cent. We know this man always takes pills, like Tylenol 3 and sleeping pills, because of continuous pain. I do not think he would even be able to do a light job because of the continuous pain."

Claimant is preparing to appeal the board's decision, but is forced for financial reasons to apply for disability pension from employer. On his own initiative, he is examined by Dr. Ian McIntyre, orthopaedic surgeon in Burlington, on August 9, 1984, who arranges for a CT scan.

He also sees Dr. John T. S. Sadler, who confirms Dr. McIntyre's initial diagnosis of root stenosis and in his report states in part, "The CT scan may prove this, although even it is not a perfect tool for so doing," and continues, "I am prepared to substantiate the organic nature of his problem should that be required as part of his appeal process."

In January 23, 1985, the board agrees the claimant had an accident on May 14, 1982. There are a number of appeals pending as a result.

The assembly line approach to the process of healing by the board doctors is a major cause of

injured workers' frustration and worry. Why is it that in such cases the board's doctors' medical opinions vary, but at the same time overrule the consistent opinions of the injured workers' doctors and specialists? Who should know the injured worker better than his own doctor?

Adjudication reform: there is a crying need to eliminate the red tape and delays at the adjudication level. Establishing a claim or appealing a decision can take many months and many injured workers are forced into welfare situations in the meantime. Why is there a definite bias toward the employer? The reports of the injured workers and his doctors are often ignored, but every word of the employer is taken as gospel. Adjudicators must be nondiscriminatory and better trained. If there is a heavy work load, more must be hired.

Worker advisers: there is a demonstrated need for the Welland area to have three worker advisers. Community legal clinics, labour unions and MPP offices cannot handle the work load in providing assistance at all stages of the compensation process. The injured workers' groups should be kept informed by the worker advisers on all changes, applications and guidelines of the Workers' Compensation Act.

Safety and health environment: there should be tougher, stiffer provisions to police and penalize employers who violate the Workers' Compensation Act and Occupational Health and Safety Act. There should be set fines for violators that would increase with the number of offences. Where a serious wilful misconduct situation prevails, and after a specific number of offences, the employer should lose the protection from legal action on the part of the employees. All injured workers should not be penalized by the actions of a few employers who are at present abusing the laws and creating a bad reputation, as well as adding costs for all employers. The Ministry of Labour has the responsibility to ensure adequate and proper funding of the compensation system.

It is important that employers understand that the definition of a handicap, as set out in the Human Rights Code, is defining an injured or disabled worker to whom workers' compensation benefits or pensions were or are at present being paid. A "no reprisals" clause should be built into the Workers' Compensation Act. All we ask is justice for the injured workers.

By the way, my name is John Severinsky. I would like to fortify two points briefly. One is industrial disease and the other is rehabilitation, both medical and vocational.

Most, if not all, of my fellow workers in the sinter plant at Inco are dead as a result of sinus cancer, emphysema and lung cancer. The Mine, Mill and Smelter Workers Union, and, after the merger, the United Steelworkers of America, consistently fought to have those diseases related to work. In spite of the fact that there was overwhelming evidence, including medical evidence, that these diseases were work-related, it was consistently denied by the WCB until very recently.

There is a big job to be done in that area. I listened to the presentation by the representative of the mining industry. He made the point that one of the major costs was due to injuries or diseases from nonoccupational origins. If they spent some money in improving the work environment and providing safety equipment, perhaps the costs would, in the long run, be much lower.

The case I have listed on page 6 of the brief is my own. I can sincerely and honestly state to this committee that I received no medical rehabilitation and, subsequently, no occupational rehabilitation. All I got from the board, by being there on three different occasions, were hassles and undignified treatment. I was continuously pushed into a situation where they tried to make me believe that I had some marbles loose in my head, that my behaviour was wrong and my attitude was wrong.

12:10 p.m.

I then went through a back assessment program, where they did not find anything wrong with my back. As a matter of fact, all the diagnoses that are stated in the brief are photocopied from the records. At the time, I was told I simply had back strain. Dr. Sadler, one of the few doctors I went to on my own to get an independent opinion, stated that back strain did not mean anything. If there is no proper diagnosis, no proper medical rehabilitation, how can a man then be pushed into vocational rehabilitation? That is one of the major problems.

The committee should have a good look at the rehabilitation procedure in the act and ensure that the guidelines are clear and that they cannot be misinterpreted in any way. That can cause serious damage to the worker. It is going to add to the cost eventually, as well as probably increasing his injury.

We have a claimant with us who is an example of some of the stupid bureaucratic decisions made by the board. He was informed in June that he had a back injury. In June 1985 he was awarded a temporary supplement. In the mean-

time his back condition got worse and his doctor put him into a cast.

The board found out he was in a cast and said: "We have just been advised that you have a body cast and you cannot look for work. Therefore, we are cutting off your supplement." He has received no money since then. This is just one situation. We have many others. So you see there is something very seriously wrong with the way the system works.

Mr. Lunardon: I have one other thing that is not in the brief. I would like to know why the WCB advertises on TV. If they have that kind of money—and as far as I can figure it out, it is stupid because there is nothing there for anybody—why do they not give the injured worker the money instead of throwing it away?

Mr. Chairman: Mr. Lunardon and Mr. Severinsky, thank you for your brief. When you were going through it—and I did not know it was Mr. Severinsky's case—my entire 14-year career as an MPP flashed before my eyes. We have all seen so many cases very similar to that.

It is also the first time anyone has suggested, of all the people who appeared before the committee, that the rehab section should be hived off from the compensation board. That is a new wrinkle that no one else has thought of.

Mr. Lunardon: With injured workers on it.

Mr. Chairman: Any questions from members of the committee?

Mr. Martel: I have nothing to ask but I would comment that, like you, these are experiences I have had for 18 years. That is why I have become not only frustrated, but at times I almost verge on irresponsible in my dealings or discussions with the board.

When I first started this business I used to delight in winning on behalf of a claimant. Unfortunately, one acquires a reputation for having won these cases. One can go on winning individual cases but very little changes in the overall approach of the board and one becomes absolutely frustrated. As Mr. Laughren said, his entire 14-year career flashed before him. We have seen all the stupidities.

I have seen men come to my office with plaster from here right down to their hips and live that way for six months without any income. There is not a case that can come before this board that I have not seen. From cutting off pensions to overpayment and trying to reclaim it, even though they had the doctors' reports and it was their mistake; you name it, I have had it all. That is why I have become so awful, maybe, in my

dealings. I have simply reached the point of being totally frustrated by the experience, because nothing changes. You will all get the same way, unless there is some drastic change.

Mr. Chairman: I think I saw Mr. Cain writing down the claim numbers as you were talking.

Mr. Severinsky: There is one more point, Mr. Chairman. Workers are often told at the hospital or rehabilitation centre that they are capable of certain modified work. That is decided without determining what the actual injury is and the work is not defined.

In my case, I came home and called my employer. I talked to an industrial relations guy and told him what my capabilities were. He said, "John, the board has to be realistic." That is the employer talking. I wrote a letter to the board and I asked, "Would you please make me aware of what type of job there is or what I can be trained for?" I received no reply. Yet the decision stands. They cut me off.

Mr. Lunardon: I got a letter on Friday from the WCB. I had applied for the older worker's supplement before April 1. The letter stated that I would not get it for the period before April, and I was disqualified after April. The next paragraph stated that there was no sense in rehabilitating me because, in the board's opinion, I was totally disabled. On the next page, it said I had stated that I was temporarily totally disabled.

I have had college people read the letter. I cannot make heads or tails of it; they cannot make heads or tails of it. We called the board on Friday afternoon and asked the people there to explain it. This goes on steadily. I am only the president of Injured Workers. I could be on the telephone 24 hours a day. A lot of people give me hell because I am not home 24 hours a day, but I cannot answer everybody's questions.

There is another thing. We had a meeting on Monday with two people from the board at St. Catharines. I asked the question, "Why does Canada pension plan give an injured worker 100 per cent and the WCB give him 10, 15 or 20?" I have been given the answer for the last 11 years that one is federal and one is provincial. Federal

and provincial can get together on income taxes, so they should get together on CPP. Thank you.

Mr. Chairman: Thank you. This gentleman has a comment.

Mr. Côté: Mr. Chairman and committee members, after listening to the three groups here, I am surprised there are so many shortcomings and human imperfections in the system. I was unaware of that. Since the system does not sympathize with the injured worker, could it be because it is conducted as a business?

I sympathize with the WCB. I feel sorry for it because it is incapable of supplying its injured workers with a proper income in order for them to survive, as in my group. Is it because it is underfunded? We are concerned about the underfunding business, because there is not the money to supply all the needs. I can see that need.

If there were more contributors to the system, then they would have the funds to have a better disposition towards the people so they would not have so many complaints. A satisfied customer never complains. Why do they complain to the board? Because it does not give approval. It does not sympathize with them. Sometimes, if they had a little understanding, the injured workers would not complain.

Mr. Chairman: Are you with the Welland District Injured Workers Association?

Mr. Côté: Yes, I am.

Mr. Chairman: Okay, we are getting the message. At least the board is in attendance at all the hearings, so its people are listening. All we can do, as a legislative committee, is make recommendations to the board and try to press for legislative changes as well.

By the way, we will send you a copy of our report which we will be preparing at the end of this week. It will be several weeks before it is done, but we will make sure you get a copy.

Mr. Lunardon: Thank you for inviting us and thank you for listening to us.

Mr. Chairman: Thank you for coming.

The committee recessed at 12:20 p.m.

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Martel, E. W. (Sudbury East NDP)
Polsinelli, C. (Yorkview L)
Ramsay, D., Vice-Chairman (Timiskaming NDP)

From the Injured Workers' Association, Welland District:

Côté, A., Member
Lunardon, R., President
Severinsky, J., Secretary

From the Ontario Mining Association:

Brehaut, H., President
Campbell, B., Manager, Technical Services
Pirie, J., Chairman, Workers' Compensation Committee

From the United Steelworkers of America:

Balloch, J.
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No. R-11

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development

Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament

Wednesday, October 9, 1985

Afternoon Sitting

Speaker: Honourable H. A. Edighoffer

Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 9, 1985

The committee resumed at 2:03 p.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984 (continued)

Mr. Chairman: I definitely see a quorum and we are going to start as close to being on time as we have for some time. We will start off with the Association of Southwestern Ontario Legal Clinics. I do not know who is going to start off, but please do so by introducing yourself and your colleagues.

ASSOCIATION OF SOUTHWESTERN ONTARIO LEGAL CLINICS

Mr. Craig: I will start. As other groups have done, I would like to thank the committee for making these hearings open to receive briefs and presentations from the public and for our opportunity to appear before you today.

We are representatives of four legal clinics, all located in southwestern Ontario. All four of us extensively practise workers' compensation law. On my far left is John Slinger from the McQuesten Legal and Community Services clinic in Hamilton. Then there is Diana Clarke from the Waterloo Region Community Legal Services clinic. Beside me is Debbie Kahler from the Niagara North Community Legal Services clinic in St. Catharines. My name is David Craig and I am with the Halton Hills Community Legal Clinic in North Halton.

Before we start, if I might make a brief comment on my own motion, so to speak, we have heard the comments that the two opposition critics made at the start of these hearings last week. They addressed a number of problems, many of them intangibles. The Conservative critic, as I recall, spoke about the aura of defeat that he sees in the workers he represents. The New Democratic Party addressed a number of problems, including the apparent policy of persistent denial of claims that the Workers' Compensation Board seems to have and the rather hopeless rehabilitation efforts it makes.

We were treated then to hearing the board come before the committee and try to explain away those things. They explained that there were certainly no policies in place that would

account for the criticisms and that, in fact, there were policies and procedures to prevent those things from happening. They explained that a few problems always occurred and that out of all the claims they handled there were bound to be a few difficulties. They said that if there were any individual problems they would be pleased to look at them and they attempted, with some success perhaps, to defuse the presentations that had been made.

I wanted to say that we, as a group, adopt in general terms the criticisms and the presentations that the opposition critics and other members of the committee made. In our view, the reality is the same as that presented by those members, not the view that was presented by the board. I hope the spirit of those initial hearings in the first couple of days will not be lost. There are serious systemic problems with the board.

However, we do not have the time to rage against the board the way some members did, so we have confined our presentation today. We have tried to choose judiciously four specific areas to address and each of us is going to make a brief presentation to the committee, starting with John.

Mr. Slinger: Thank you, David. What I am going to say is a statement of the reality I see in doing compensation cases over a five-year period and a response to the board's unwillingness or inability to recognize that problems exist. I am going to deal specifically with the question of claims adjudication. I want to begin by talking generally about claims adjudication.

It is now pursuant to Bill 101, as set out in the Workers' Compensation Act, that all claims are to be decided in accordance with the real justice and merits of the individual case. That was previously a policy of the board. It has now been made a statutory requirement. That creates an implicit duty for the board to do everything it can to come to the real merits of the case, which means to investigate all facts that might be relevant to making a decision and not to make a decision until all those relevant facts have been pursued. Anything short of that is essentially in violation of that requirement.

The reason it is so important, at a claims adjudication level, to get to the bottom of a claim is that you create enormous hardships for injured

workers by not doing so. Obviously, if the claims people do not do their job and do not get the information that is necessary, the matter goes to appeal. It is then up to the representative and the injured worker to get that information that should have been obtained initially by the board and to get that in front of an appeals person and have the case properly decided.

That might be an easy thing to say. I set two dates yesterday for appeals in February, which means that my clients who have been denied benefits are going to be living on welfare until February. That is the grim reality of what we are dealing with.

2:10 p.m.

While I have never lived on welfare, I can only paint for you the very horrible life that it is. You have to remember these are people, in many cases, who are supporting families and who have been working for many years in the work force and are suddenly trying to live on \$500 a month. It is an unbelievable aspect of a denial at the claims level, but this is the reality and this is what goes on.

I listened to the WCB presentations last week and I was especially struck by the comments made by Mr. McDonald of the board. Mr. McDonald was responding to the suggestion by one of the committee members that claims adjudicators do not go out of their way to get information that they should.

Mr. McDonald's response was that these people are dedicated and hard-working, that they do everything they can, that they go out of their way—these are terms he used specifically—to get information necessary to accept a claim. My immediate reaction was that he was not talking about the same compensation board with which I deal on a regular basis.

Perhaps the most disturbing part of the whole thing is that the board continues to insist that everything is fine. It continues to wheel out statistics and charts demonstrating that things are working. It is this refusal to admit that fundamental problems exist, essentially in attitude, that causes me the most problems.

I want to relate a case to you. I know you have heard more cases than you can properly assimilate or pay attention to, but this is a case we dealt with which, in my opinion, embodies the spirit at the claims adjudication level of the board. The facts of the case are on the second and third pages of our brief and I would like, very quickly, to recount those for you.

This is a case of Thomas Edward Collins. Mr. Collins was a 43-year-old truck driver from

Burlington who was found dead in the cab of his truck at a weigh station on Highway 401 in September 1982. He had just finished loading 40,000 pounds of flour on to his truck; those were in 45- and 55-pound bags and he apparently died a few hours later on his way to Montreal with this load.

An autopsy revealed that Mr. Collins had heart disease. Even though he was a young man and had no heart problems, there obviously was some degree of heart disease present. The board's policy in that situation is only to pay benefits where it can be demonstrated that the heart attack was precipitated by an unusual physical exertion.

The board pursued this in its ordinary course. It indicated that it was referred for "routine fatal inquiries"; that is the term that was used. The routine fatal inquiry consisted in this case of contacting the spouse, the employer and a worker who had apparently loaded next to Mr. Collins.

The employer said: "He did this all the time. He loaded his own truck 20 per cent of the time. There was nothing unusual about it. We object to acceptance of the claim." That statement was accepted out of hand; it was accepted on its face by the claims adjudicator, the team co-ordinator, who is presumably senior to the adjudicator, and the board's surgical consultant who reviewed the case and did not challenge any of the facts. He said, "There was no unusual strenuous activity in this case."

It then went to something called the claims review branch, which is now something different, and was seen by a review specialist. The review specialist thought everything was fine as well. In the event, we had four people, plus a number of investigators, looking at this case and they all decided they had enough facts and, if the company said he usually did that kind of work, that was enough.

Mrs. Collins came to us and, frankly, we did not know whether she had a good case; we did not know what the guy ordinarily did. All we had was the statement of the employer. We went to an appeals adjudicator hearing and among the people we subpoenaed was the employer's representative who had given that statement to the board. He was their safety supervisor.

I asked him on what he based his assessment that the guy loaded and unloaded his truck 20 per cent of the time. He said he did not know; he had not checked any records, but that was a general feeling he had. I suggested to the adjudicator that it was far more within the board's powers than within my powers or my client's powers to determine from a company specifically how

often this guy would be required to load or unload 40,000 pounds of anything by himself. The adjudicator agreed to send it back to an investigation.

It went to an investigation and the investigator went to the company again. The company went through all his trip sheets and the dispatcher wrote on each trip sheet the loads that were likely to have been loaded by hand. There were 44 of them, or at least they involved 44 different companies. This did not tell me anything, but the adjudicator was prepared to decide the case on that basis.

He sent the material to me and asked for final submissions. I said: "Surely we have not gone far enough. Should we not now contact the 44 companies to find out what their loading procedures are, to find out if this guy would have had help or if some equipment was used in the loading or unloading?" They agreed to do a further investigation and they contacted the 44 companies.

The conclusion of this entire case was that of the 241 loading and unloading situations this guy had been involved in during the course of his work with this company, in only five had he ever handled more than 10,000 pounds. On no occasion had he ever handled more than 30,000 pounds prior to this incident. On that basis the appeals adjudicator accepted the claim and decided that this had been unusual and that my client was involved in unusually strenuous activities on this day.

That was two and half years after the claim was made. What is absolutely astonishing is that four apparently competent people from the board could all look at this case and none of them would ever ask himself the question whether this guy had ever loaded 40,000 pounds before. Certainly no one was prepared to ask for any records of the company on that issue.

I know that case histories can go in one ear and out the other, but the reason I have raised his case is this. The board suggests to us that problems exist only in isolated cases. I suggest to you that here is a case of a fatal accident, with a wife and three children left behind, which has enormous consequences both financially and emotionally for the family.

In spite of this, the case was handled in a completely superficial and slipshod fashion. Of all the cases, one would expect the board would go out of its way on this one to get information to prove entitlement. One would think this would be the case where they would leave no stone unturned.

I am not prepared to accept that it is because of incompetence. The board employs competent, or capable enough, people. Instead, I think the willingness to accept at face value the statement of the board suggests the real problem, which is one of attitude. It is as a result of this prevailing attitude at the board that the concept of deciding cases in accordance with the real justice and merits of the case is totally obscured.

It is obscured to the detriment of injured workers throughout the province. The board seems unwilling to accept that this attitude problem exists and to take steps to remedy it. Until it does, cases such as that of Thomas Collins will continue to be the rule, not the exception. I continue to be sometimes frustrated, always disappointed. Mr. McDonald and his people are not facing reality.

2:20 p.m.

I want to talk briefly about board doctors, who are a very critical and important part of the claims adjudication function. It is an accepted fact that the board relies on its own doctors. It readily admits it. There was a doctor here last week from the board who certainly admitted that board doctors had a certain expertise no one else had.

At the special committee looking into the Ombudsman's activities that met last September, two board personnel indicated there was some specific expertise that could be attributed to a specialty in compensation medicine. It is not clear to me at all what compensation medicine is, but that seems to be the general feeling. Again, I suggest to you that that is completely contrary to the notion of deciding cases in accordance with their real justice and merits.

I want to give you an example of the kind of situation that anyone that deals with compensation faces every day and the kinds of problems they see associated with it.

Typically, worker X is found by a board doctor to be fit for modified employment. His family doctor says he is totally disabled and his specialist says he is totally disabled. The board sides with the board doctor, and the effect of the worker not accepting that is a reduction of 50 per cent in benefits.

This is saying to an injured worker, "You cannot rely on your own doctors." That seems to me to have a pretty tragic effect in terms of the relationship of trust between an injured worker and his doctor or of a patient and his doctor generally. That has a significantly negative effect on the whole question of medical rehabilitation. When there is an injured worker who does not

believe in his doctor, then I think you have real problems.

At the same time, you have a doctor who, at this point, does not know what to think of the board. Certainly, the relationship is, I think, generally one of acrimony between board doctors and the doctors of injured workers. The result, generally, is a lack of co-operation on the part of the family doctor or treating specialist who is simply fed up with dealing with the board. It seems to me that this has a significantly negative effect on the adjudication of claims and getting injured workers back to work generally.

Our suggestion would be to limit significantly the role of board doctors. As far as I am concerned, we should be putting the integrity back into the hands of the family doctors and treating specialists. Board doctors might be appropriate for helping to set medical issues, asking questions of outside doctors and things like that, but it seems to me they really serve very little useful purpose.

There is some argument that we need them for the purposes of the permanent disability assessments. My response to that is if we had a disability rating schedule that was understood by everyone, that had objective criteria attached to it, then there would be no great difficulty in an adjudicator taking the findings of the treating physician and plugging those into a rational assessment rating schedule. I do not think that would pose any great difficulty.

I suppose I am realistic enough, maybe cynical enough, to believe board doctors are with us to stay. But I am going to suggest that, at the very least, we should be able to expect that board doctors will deal reasonably with competing medical opinions.

I want to read a brief remark of the Ombudsman, which was made in the most recent annual report, volume 1. On page 12 the Ombudsman says: "Wholly, it is the responsibility of adjudicators and commissioners to weigh and evaluate all the evidence before them without giving preference to the opinions of board doctors. It is then the responsibility of adjudicators and commissioners to provide to the injured worker clear reasons for their preference for one medical opinion over another."

"These reasons may include the qualifications of the doctors and the accuracy and thoroughness of medical reports. I would urge the board to take steps to ensure that the appropriate reasons are given in all cases."

If the board were to follow the Ombudsman's suggestions, I think we would all benefit. We

could generally expect to receive legitimate reports from board doctors, not just the three-line reports we get now. We would be able to ask for the qualifications of board doctors so they could not hide behind some very dubious and mystical compensation medicine expertise.

In other words, I think it is appropriate that we open board doctors up to critical scrutiny generally. If their opinions are going to be accepted, they had better be accepted with reason and the board had better establish the expertise of their doctors. Otherwise, as I said, the principle of deciding cases in accordance with justice and merits is totally obscured.

Until we bring board doctors, and I think the board's adjudication process generally, out of the shadows, as it were, we can never really expect the adjudication system to function properly. I think it is simply a matter of saying the board has a duty to weigh logically and judiciously all evidence in front of it.

I would like to make three recommendations on the basis of my submissions. These are found on page 9. I would like to read the recommendations:

"We ask the committee to make the following recommendations: 1. That the board commit itself faithfully to complying with its statutory duty to determine cases in accordance with the real justice and merits of the case at all levels of adjudication;

"2. That the board establish an objective method of regularly monitoring the effectiveness of the system in obtaining all relevant information and evidence prior to the initial adjudication of a claim;

"3. That the board only rely on the opinion of one of its own doctors where the value of that opinion is demonstrably proven on the basis of objective criteria."

Mr. Chairman: Thank you, Mr. Slinger.

Ms. Kahler: I would like to address the committee about two issues primarily. First, I would like to talk briefly about the relationship between supplements and vocational rehabilitation. I have referred to this relationship as the unholy alliance.

Mr. Barlow: I have heard that phrase before.

Ms. Kahler: I did not footnote the phrase; I should have.

Mr. Chairman: I want to make sure the people from the clinics understand the members are making reference to a certain alliance around Queen's Park these days. The bitterness is coming forward.

Mr. Yakabuski: In some quarters there is an alliance that is crumbling.

Mr. Martel: It sounds like sour grapes to me.

Ms. Kahler: That is certainly not my intention.

In an attempt to recognize the basic inadequacy and inequity of the present system of permanent disability awards, the Workers' Compensation Act has included a section which I am sure we are all familiar with. It enables the payment of supplementary benefits to injured workers who are permanently disabled.

It is not my intention at this point to pursue a discussion of permanent disability assessment. That area is going to be adequately dealt with elsewhere in this submission. However, I would like to draw your attention to two closely related and currently interdependent sections of the legislation.

Subsection 45(5), which was formerly subsection 43(5), reads as follows: "Notwithstanding subsection 1, where the impairment of the earning capacity of the worker is significantly greater than is usual for the nature and degree of the injury, the board may supplement the amount awarded for the permanent partial disability for such periods as the board may fix, unless the worker fails to co-operate in or is not available for medical, vocational or rehabilitation programs which would, in the board's opinion, aid in getting the worker back to work, or fails to accept or is not available for employment which is available and which, in the opinion of the board, is suitable for the worker's capabilities."

We can see no logical or justifiable reason why a recognition that the impairment of the earning capacity of the worker is significantly greater than is usual for the nature and degree of the injury, must be linked in any way to participation in a vocational or rehabilitation program.

2:30 p.m.

In many instances, the existence of a fairly severe disability makes participation in a vocational or rehabilitation program difficult, if not impossible. If the purpose or intent of this section of the act is truly to mitigate the impact of an unrealistic permanent disability award system, then let it do so. That is not the effect of the present system of making the provisions of the supplementary benefits dependent upon an ability effectively to play the vocational rehabilitation game.

In view of the present level of unemployment, the idea of sending disabled, poorly equipped injured workers into the ranks of desperate job seekers seems to be ill conceived and ineffective.

The often-ignored fact of this situation is that some people, because of a combination of factors such as academic background, lack of acquired job skills, age, ethnic and cultural background and degree of disability, are going to be more adversely affected by their compensable permanent disability than others.

Because of this very basic inequity, the Workers' Compensation Board must find some way adequately to recognize this inequity and provide long-term security for these victims.

If the services of the vocational rehabilitation division were available to all injured workers who were interested, but geared specifically to those who could truly benefit from such a program, the efforts of the beleaguered rehabilitation counsellor would be considerably more effective.

In my work at the legal clinic, I frequently encounter injured workers who are involved with vocational rehabilitation for reasons that are often unexplained and unknown to them. They find themselves in a situation where, if they do not co-operate from the perspective of the rehabilitation counsellor, do not play the game and do not do their job search, when they know the type of job they are looking for is not going to be available to them because of the type of disability they have or their background, it is terribly frustrating to have to tell the person: "This is how the system is. It is an unfortunate system, but you have to do your job search. I know it is quite likely you are not going to find a job in this field, but you really have to play that game."

Unfortunately, the injured workers, who are often unable to continue to receive supplementary benefits because their permanent disability award does not recognize the degree of disability and the impairment of earning capacity, are often the people least likely to be able to play the game. The ones who do not have good language skills, good job skills and good social skills are the ones who will be cut off their benefits.

The other thing I would like to talk to you about briefly is a program that has been part of the vocational rehabilitation program throughout the province, but especially in the St. Catharines area.

I wonder if Mr. Decker could assist me in passing out two pieces of paper to the committee. When you receive these additional pieces of paper, I would like you to bear with me for a few minutes.

Perhaps if we could first of all look at the paper entitled *The Way We Look at Words*. It says,

"Place an 'X' in the appropriate blank to indicate how you view each word." You can see three words on the left-hand side of the page, "love," "paternity" and "sexual intercourse." One must indicate how one feels when one encounters each of these words.

Mr. Gordon: Do we have to hand these in?

Ms. Kahler: You do not have to sign your name.

When you are looking at this piece of paper, I would like you to try to imagine how you would feel if you were handed a piece of paper like this, if you were an injured worker in your mid- to late 50s, perhaps not with English as your first language and from a cultural background that makes discussion of these words and concepts uncomfortable, if not prohibited. Then imagine you are sitting in a group with 15 or 20 other people, none of whom you know. There may be people of the opposite sex in the room, and that is fine.

You are told you do not have to participate in this program, but you know that if you do not participate, there is a good chance you may be considered to be unco-operative. You do not want to be considered unco-operative because your ability to pay your mortgage and put food on the table for your family is dependent on you being co-operative.

So you consider your right not to participate in this and you decide, "All right, I will participate." Consider the feelings of conflict, anxiety, frustration, confusion and humiliation that an injured worker in that type of situation is going to feel.

What relevance does this have to their ability to seek employment, to their ability to be tested for other types of suitable employment? I question that it has any relationship at all to what the stated goals of the vocational rehabilitation program are.

Mr. Gordon: Are you saying injured workers are given this?

Ms. Kahler: Okay.

Mr. Ramsay: By whom?

Ms. Kahler: Let me answer that after, if it is all right with you.

Mr. Rowe: This is for injured MPPs.

Ms. Kahler: Look at the Alligator River story. Once upon a time there was a man A, who was in love with a woman B on the other side of the river. The river is full of alligators, so he cannot get to her without a boat. C is a young woman who owns the boat. She will take him to the other side of the river to be with B only if he

agrees to sleep with her. He agrees. C carries through with the agreement, but when they reach B on the other side, C tells her of the contract. B then rejects him because of his conduct, so C returns him to the other side again. He then meets D. She cannot win any other men, so she marries him.

I would like to tell you what relevance this has to our presentation today. Approximately two years ago I started noticing that many injured workers were coming into the legal clinic and saying: "We are involved in the program. We do not really know what it has to do with returning to work or developing any job skills. The people are very nice, but we do not understand why we are having to do this."

Others who were less articulate would say: "I go into this room and I feel humiliated. They ask me to talk about things that I do not even talk about with my wife."

Both of these pieces of paper are photocopies of papers that were brought to me by an injured worker about 20 months ago. At that time, I made inquiries, and this was the type of exercise that was part of the program. This is a small part of the program, but this was part of the Focus for Change program that was happening in St. Catharines. I do not know if that is still going on.

I think the intent of this type of program is admirable. The goals of the program are basic job-readiness training, which is a very good thing. But I question what relevance these types of exercises have to do with returning to the job market. I am hopeful this is not going on at present. I do not know whether it is or not, but I know it was going on 18 to 20 months ago.

Mr. Gordon: May I ask a question at this point?

Mr. Chairman: If it is for clarification, go ahead.

Mr. Gordon: What was this program called and what branch was putting it on?

Ms. Kahler: The vocational rehabilitation division of the board often purchases space in different programs across the province that are designed to help people develop their social skills, sort of their pre-job-search skills.

Mr. Gordon: Was this a community college program?

Ms. Kahler: It was part of the Focus for Change program.

Mr. Barlow: Which is the Ministry of Education?

Ms. Kahler: Yes.

Mr. Barlow: Or the board of education, not the ministry.

Ms. Kahler: No. I think it was put on originally through the community colleges, but I am not sure of the actual nature of the program that was purchased, seat by seat, by the compensation board.

Mr. Gordon: What did you say this program was called again?

Ms. Kahler: It is called Focus for Change. The Focus for Change program has a lot of very positive aspects to it too. I am pointing out one aspect of it that concerned me a great deal when I came in contact with this.

Ms. E. J. Smith: Was this program for men and women?

Ms. Kahler: Yes.

2:40 p.m.

Mr. Polsinelli: But we are taking this completely out of context. We do not know what the purpose of this type of question was and we do not know the type of individual it was given to.

Mr. Martel: Do you think that group of injured workers we saw on Monday would know what in the hell any of that meant in English?

Mr. Polsinelli: I do not know what this means, but that is not the point.

Mr. Martel: Certainly it is the damned point.

Mr. Polsinelli: All I am saying is that we are given a piece of paper with a little story on it and then another piece of paper with a number of words asking how we feel about it. We do not know anything about the—

Mr. Martel: I can hardly wait for a year from now to sit in here and listen to you if you are going to do any compensation cases. I really cannot.

Mr. Chairman: In the meantime, let Ms. Kahler finish her presentation.

Ms. Kahler: My purpose is not to denigrate the vocational rehabilitation program but to point out that there have been problems in the past. The purpose of this series of hearings is to look at the 1984 report. I am talking about something that has gone on in the past. I hope it is not going on at present to this extent, but I just wanted to point this out to the committee. Perhaps the members can make further inquiries and confirm for themselves that this is not going on at present. That is my hope.

I wanted to give you an opportunity to look at this from the perspective of injured workers. You have seen a lot of injured workers in the past

couple of weeks. I would think you could not help but empathize with the feelings an injured worker—perhaps like the injured workers who were in here on Monday—would experience when looking at this type of material.

Mr. Chairman: We have a very senior official of the board here today who has a lot of clout and I know he will get these answers. I am sure he will find out for us what is going on.

Interjections.

Mr. Craig: I am not quite sure how to lead in from Debbie's topic to mine. I want to say a few words about the permanent disability rating schedule. This is one of the most beleaguered of the entire workers' compensation scheme. Members of this committee have made their various criticisms of it in these hearings and otherwise. Both the minister and the chairman have acknowledged that there are problems and have promised reforms.

Of the many criticisms that can be made, starting with whether it ought to exist at all and going down from there, there are two we want to make today. These two are not as commonly made as some of the others. We have no reason to think the proposed reforms are going to correct these two criticisms.

The first is that neither injured workers nor their representatives know where the meat chart came from. You have all seen it. It is a schedule that is a reasonably complex system that assigns percentage ratings for disabilities. Where did those percentages come from? An elbow is rated at 20 per cent, an ankle at 12 per cent and the low back at 10 per cent to 30 per cent. Why is an ankle 12 per cent? Why not 13 per cent or 11 per cent? Where did they come from? Who says an elbow is worth more than an ankle in this rating system? Why is a low back a maximum of 30 per cent? Why not 50 per cent or 60 per cent? Has this been created according to medical and scientific knowledge or has it been pulled out of the air somewhere?

Our association wrote the board last year, exactly a year ago in October, asking for the answers to those questions. First, we first received a reply saying that no, we really did not want to know the answer to those questions at all. We eventually persuaded the people at the board that we did, so they sent us a fairly comprehensive package of material which gave a descriptive history of the rating schedule. We know the beginning of it was with a Dr. Bell of the board in 1960 who prepared a report which was adopted by this board and others in 1965. It has continued on since that time without any really substantial

revision, although there have been some changes.

We wrote the board back after that and said, "Thank you very much, but that still does not answer our questions." They wrote back to us and said that, "The schedule is under review and when that review is completed we will provide you with a copy and we are sure that will answer all your questions." To date, they still have not given us any information on how the schedule was created. It begins to raise, at least in our minds, the rather frightening possibility that there is no medical or scientific basis, nothing that can substantiate those percentages.

The second problem is that for certain disabilities there is a range provided in the rating schedule. In order to determine which percentage within that range applies to a particular worker, he or she is assessed by a board doctor.

We also asked the board to tell us, when the board doctor makes that rating, how he makes his decision, what criteria he uses, what measurements he makes of the worker, how he assesses the disability and how he applies those findings to the rating schedule. How do certain findings about degree of limitation, and so on, get translated into one percentage and not another?

Again, we still do not know. Generally, the board doctor completes a report as a memo to the file. That report has about 10 or 12 lines in one paragraph which reports the findings, usually in general terms; there was tenderness here, there was limited range of motion here. It rarely makes a specific measurement and, even if it does, the problem is you cannot go from those findings, even if they are specific—and they usually are not—to know how the conclusion was arrived at.

I am sure most of you have seen the American Medical Association's Guides to the Evaluation of Permanent Impairment, which provides a very precise way of determining the percentage of disability.

Even worse than that, at this point not only does the worker not know how his pension rating was arrived at but, if he wants to appeal the decision, the hearing officer or appeals tribunal, as they now are, also cannot know how that decision was arrived at. If they do not know how the decision was reached, how can they adjudicate on the appeal? If there are no reasons for the decision, how can they decide if it was right or wrong?

Why does it matter? It matters because, according to the 1984 report, there are 90,000 workers receiving active pensions. My understanding of that is that, when the board says

"active pensions," it would mean people actually receiving monthly payments, but that would not include all those whose pensions were commuted. I might be wrong on that, but that is my interpretation. If that is correct, there would be far more than 90,000 people receiving pensions, and there were 20,000 assessed last year for pensions. Not one of those knows how his pension was arrived at.

This committee has been referred already to the 1981 study of the board, which showed there is a 40 per cent unemployment rate among pensioners, so all of that 40 per cent is relying on those pensions to a substantial extent in order to live. For serious disabilities, there has been a profound disruption in the worker's life and it is inevitable he or she is going to view the rating of the disability, the pension rating, as somehow a measure or reflection of all that this injury and what has followed has meant to his life.

Surely it is one of the final indignities that workers who have to go through this unsatisfactory process do not even know, and cannot find out, either where the rating schedule came from, this percentage they have been given, or how it was arrived at in their own cases.

I recalled today a section of the speech made by the Minister of Labour (Mr. Wrye) last week and I am going to quote a paragraph from it. He said: "The establishment of such a link between the level of compensation and earnings lost should surely be the central objective of any effective and widely acceptable workers' compensation system. It is, after all, the basis on which the courts generally assess damage awards in accident cases and the workers' compensation system is recognized to be a replacement for the tort system in work injury situations. In return for relinquishing the right to sue for recovery of losses in such cases, the worker is guaranteed a source of compensation on a no-fault basis."

2:50 p.m.

If the minister wants to make the analogy to the courts, he ought to take it a little further. In the courts, we know what the system is for assessing pain, suffering and other damages in a personal injury case. There are volumes of law on the subject and one can find out the basis the courts use in these cases. In any case the court will provide reasons explaining how it arrived at the assessment of damages. The minister and the Workers' Compensation Board ought to take the same steps and provide as much information to people who are assessed for pensions as do the courts.

We wrote to the minister on August 12 proposing that if the rating schedule was under review, before it was made final and sent to the board of directors we would like to review it and to make some submissions on it. We have not received the minister's reply as yet. I am sure it is just delayed in the mail.

Mr. Barlow: Was that September 4 or August 4?

Mr. Craig: We wrote on August 12.

Mr. Martel: It is only two months.

Mr. Craig: I have quoted on the bottom of page 16 the comments made by the chairman in his speech. He says he has made a commitment in writing to allow injured workers' groups to have input into this decision before the matter is referred to the board of directors and "we intend to live up to that commitment." I do not know to whom he made that commitment; it was not to us, even though we have asked for it for some time.

We applaud that intention. However, on the basis of that statement alone, we remain sceptical. We are asking the committee to make two specific recommendations. These are on the bottom of page 17.

The first is that injured workers and their representatives have the opportunity to review not only the rating schedule but also the scientific and medical criteria or whatever other basis was used in arriving at that schedule. We want the opportunity to make representations on the basis on which it has been prepared prior to its final approval.

The second is that the rating schedule include not only the percentage ratings, which it does now, but also a clear statement of the method and criteria used by board doctors in individual cases to determine the specific rating for each worker.

Ms. Clarke: I have been asked to deal with the 1984 annual report. I do not intend to go through this entire submission in our comments because I know the committee has discussed a lot of the statistics and information provided in the annual report.

It is the lack of information that concerns us; what is not in this report that was available in some previous reports. We had an opportunity to review the annual reports offered by the board. There is a lot of information that can be used for working towards solutions that is not in this current report. You cannot come into a committee and make submissions on some of the items without having that very basic information. It is not available to us.

We were happy to see the board take a fair amount of time to indicate what was happening in claims adjudication. What it did not deal with at all was pensions adjudication. That is the major source of our appeal.

If pensions adjudicators are deciding permanent disability awards for permanent pensioners and are also making the temporary supplement decisions, we have no statistics available, particularly in this annual report, about that. It is something that has annoyed us. We would be interested to know if the experience of the pensions adjudicators and the review specialists is similar to the claims adjudicators.

It has been noted that a significant number of claims adjudication decisions are being overturned at the claims review branch. Why? We do not know what is happening at pension adjudication to the review specialists. I assume we will have that sort of statistic available to us next year since there is going to be only one review branch dealing with all these decisions. I would like to see exactly what happens. Many workers who go in asking for pension reassessments again and again are denied and that is a lot of the appeal activity.

The other thing about these appeals in those areas, particularly temporary supplements about which we do not have a lot of information, is that the people who are on temporary supplements are in great need. We do not know how fast their decisions are being dealt with under appeal and there does not seem to be a priority, but last year the board made some attempt to put these appeals on more of a priority basis. We have no idea what is happening in these areas and it is something that has to be dealt with.

John has talked about claims adjudication and the problems of very poor investigation and not getting the information together before making the decision. We often find that the pensions adjudicator will make a decision based simply on one board specialist's opinion. I do not think that is necessarily a good way of making decisions either.

We note that the temporary supplementary awards were given as a rehabilitation measure. In 1984, 8,847 awards were given, relative to 90,000 active pensioners.

If they have some discussion as to whether there is a 40 per cent unemployment rate among these pensioners, I wonder what the other 30 per cent are doing, and I am not even sure if that is a valid statistic. My experience is that most of the workers on temporary supplements are on for three months to a year if they are lucky. I do not

necessarily see that as a reflection of the number of people who were still on a temporary supplement at the end of 1984.

Other statistics that we do not have available but that we think we could comment on, are the breakdown of pensions awarded by the nature of the injury or illness and the part of the body injured. We do not know how many back disability pensions are being given and yet that represents 50 per cent of injuries. We have no idea of the seriousness of the injuries and where the approximately 90,000 pensions given out are going.

Other statistics we do not have include the average length the injured worker remains on temporary total benefits and the type of supplementary awards being offered. Is it for three months? Under which sections is it being given? We want to know who is responsible for making these decisions and having to deal with them.

We do not know what the actual referral and pension assessment experience is versus the suggested charts in the board's own policies and procedures manual. There are, in the policies and procedures manual, minimum referral times when people are given pensions. We have no idea whether people are on longer total temporary benefits or whether they are immediately referred over. I have come across a lot of people who were put on pensions way before the minimum referral time suggested by the board's own policies and procedures manual.

We have many people who are on section 41 benefits and have not been assessed for pensions for a tremendous amount of time this year, whereas normally they would remain on total temporary benefits until they were sent for a pensions assessment. It is a completely reversed situation and these people are being asked to co-operate before they are even told they have a permanent disability. So the board is determining that they have a permanent disability, but it has never sent them for a pension assessment. Then it keeps them on supplementary benefits for a good period of time. I have gone to a couple of appeals where the adjudicators were very upset at having to deal with a section 41 appeal for supplementary benefits when no pension award has even been discussed at the board.

People have already commented on the appeal process and the number of decisions being overturned, and we are not even talking about the people who do not appeal their decision. We have many people who come into our clinic two or three years after their decision and become

aware that they can appeal and there might be some merit to their case.

There are approximately 10,000 files that have been asked for by people after the claims review branch or the review specialists' decisions, and approximately 5,000 appeals in the system. So there are a lot of people who have still not come and asked for appeals. I understand that approximately 500 appeals are backlogged for the appeals tribunal and that is a significant number. It is very difficult to face a worker across the table and tell him he has to wait eight months for an appeals adjudicator hearing.

Medically, it has been pointed out about the board doctors. Our grave concerns about proper medical adjudication on workers' files are reflected in the 144,000 files examined by the board's medical advisers. If there are approximately 40 full-time board doctors, even these experts would have great difficulty getting an idea of what the file is all about before making a decision. I know it takes quite a period of time even to sift through the number of specific cases that I have to recall.

3 p.m.

One of the big complaints that I have come across is reviewing a board file that may be extremely thick. It is like playing telephone as a child. If 10 people write the same memo, it becomes quite distorted and often this is what happens. So the impression of the file in the beginning, when the person would have been awarded, seems to stop toward the end. My feeling is that the board doctor will often only review the last 10 pieces of paper in front of him, not the whole board file.

One comment we noticed—and I do not know whether the committee has been addressed about this—is about the Downsview Rehabilitation Centre. We have all had a visit to the rehabilitation centre. We would be much more interested in information about this centre. As the board has indicated, over 6,000 workers were through there last year. We would like to know the reasons someone has been admitted there; what is involved in the full treatment program; a better breakdown on the status of the worker's benefits at the time of the admission and at the discharge; and why there is no mention of the PSEM unit—the psychological social evaluation model—which many workers go through and have no idea about.

Often assessments are done for psychological entitlement. The workers have no idea that such was the case. We have no comments on how that was dealt with. We indicate that most workers

and physicians have no idea of the purpose of the Downsview Rehabilitation Centre. In our experience, both groups feel they are going to be treated for the medical condition. They do not understand it is an assessment centre that deals with their employability. I have had many doctors comment to me personally that they thought the person was going to go in, be checked in to see if they should have surgery and that surgery would actually be performed at the centre, which is not the case. There is no surgery performed there.

Workers who are told to appear on a particular day have no indication of how long they will remain there. Workers have remained up to two months or longer, a complete disruption of their family lifestyle. They have no idea why they are there and are not told the purpose of the activity. We were told that every day they would meet as teams and review everybody's case. We were trying to find out how they do that with the limited number of personnel they have. Every day they review the more difficult cases. That may be the worker who is causing a lot of trouble because they want to know what they are doing and why.

I know the act indicates that people who are sent to Downsview must go if they are requested to go. I have many workers who will never go back to Downsview Rehabilitation Centre even if it means loss of any future entitlement. They will never go back there. Many people felt they had re-occurrences and felt they were not treated in any way of understanding what happened there. The information requested of them was misrepresented. It is not a proper system set up for that.

I know the board is very proud of its record at Downsview Rehabilitation Centre but what is its purpose? Is it really meeting the purpose? We do not wish to have it misrepresented to anyone else. If I was going into an assessment centre and my doctor said, "You have to go to McMaster", I would know what period of time I was going down for, what I was going down there for and what would be the end result. No worker is told that. They simply receive a letter and a transportation warrant saying that they are going.

The board has indicated that they have a success rate of 82.5 per cent of patients placed in a full treatment program. We are concerned as to the board's definition of success. If you would define success as the ability of the worker to return to suitable work and treatment of the worker's ongoing medical conditions upon discharge, fine. But we would not suggest that as soon as you go and you are assessed to be able to

go back to work, that is success. No, I do not think so.

Our last comment is about the rehabilitation. There is a lot of criticism addressed to the rehabilitation process. We do not have certain information so it is hard for us to comment other than to say that we do not know how the workers got to the division because they are not automatically referred there. We have no idea about the types of jobs secured and the duration for the ones done by the board. What are the on the job training experiences? How successful has it been? How many have remained in the job after those circumstances?

What is the average case load of these workers this year—we know in the past they have been very high—and the amount received in supplement service by the vocational rehabilitation service personnel? It is their reports and recommendations that go to a pensions adjudicator who makes a decision on whether a person remains on supplement. We have no idea how many people are involved in that process.

We believe it is significant that only 11 disabled employees were placed with the board. We would like to know how many at the board are active in terms of rehabilitation and what efforts they are making to promote the hiring of disabled workers by the board and by other government bodies—at least at home, if nothing else.

With the lack of information in this report, we have great concerns about the board's ability to operate effectively and efficiently. The major problems are the primary adjudication levels and the high rate of success in appeals. Should we be winning this many appeals? If we were in the criminal process, we would think there was something really wrong with our process if we were winning this many. We are good, but we are not that good, and I do not think anybody would suggest that.

The large number of appeals causing long time delays results in a significant cost to the worker and to the board. There is a tremendous amount of cost in continuing these appeals of the confidence of the board medical personnel to make fully informed decisions and the reliance of the board on these so-called experts. I still do not have any understanding of a board doctor's basic credentials. Until I see credentials, how can I understand how they should be judged against another doctor?

The last is the Downsview Rehabilitation Centre, its real purpose and operation. We have asked the committee to take a serious look and

investigate that. Certainly, on the surface, it is a wonderful thing. However, I would like to know a lot more about it because from the reports we get back, there is not one worker who has been admitted who has come out happy with the result.

Our report should show the board's current status. Without this basic information, it is impossible to determine the problems and to work towards solutions. We think it falls short of it and we submit this information should be available in annual reports in the future.

Mr. Chairman: Thank you, Ms. Kahler. Are there questions from committee members? It is a very thorough and interesting report. Ms. Smith is first.

Ms. E. J. Smith: I have three short questions. Because it is fresh in my mind, what do you mean by stating an annual report should show the board's current status? What do you mean by status?

Ms. Kahler: We have no idea how the board is operating in a lot of the areas like pensions adjudication or whatever. What we have is a partial report. We do not have a lot of information available on how the board operated last year. We assumed the annual report would provide that. As suggested in the submission—I did not really go into a lot of detail—there is a lot of information we do not have, so how do we comment on its ability and how it is functioning this year?

Mr. Slinger: I will give you an example, Ms. Smith. We would love to know how many injured workers receiving greater than 20 per cent pension awards are employed. The board is suggesting they only have 20 per cent on disability, so 80 per cent of them are capable of employment. We would like to know what success the board has had in rehabilitating those people and in getting them back to work. That seems to be a basic kind of statistic.

Ms. E. J. Smith: It is the status of the workers rather than the status of the board.

Mr. Slinger: Exactly. When we talk about status, we want to know what they are doing and the outcome for injured workers; not simply how many cases they handle and that kind of thing.

Ms. E. J. Smith: Okay. My second question is almost more of a comment. I was carried along and quite convinced by your comments about rehabilitation training until you say, for instance, that people should not be forced into rehabilitation training that may be completely unsuited to what is available. Then you went to the word

“interest” rather than the word “suitability”. Do you know what page it is?

It seemed to me that was too strong a word. I agree people should not be looking to rehabilitation training for completely inappropriate jobs they are not capable of, physically or background-wise. However, to say they should not have to go unless they are interested seems a little strong to me.

Ms. Kahler: Perhaps I can clarify that. I can see how that would be misleading. What I meant was it should not be denied to injured workers who were not felt to be retrainable. A concern I had when I was making the points earlier was we would not want to get into a situation where there was someone in his or her early sixties who had a long way to go before they were going to be retrainable for some type of work. Obviously, there is not the amount of time.

Ms. E. J. Smith: I understand all those points. I think that should be clearer. There ought to be some point at which a board can say: “You are able to do this. We are able to train you and now you do it or...”

3:10 p.m.

Ms. Kahler: Certainly an assessment process would be suitable.

Ms. E. J. Smith: My last question is on the medical aspect. I am glad that Dr. Henderson is back because I was going to refer to his comments this morning, which I completely supported while I was hearing them. We are all human. He suggested, and I agree, that the board doctors seem to have a natural bias to look for abuse and the family doctor seems to have a natural bias to be sympathetic. In your presentation, you went along with the former and not with the latter.

Mr. Slinger: Maybe I should clarify that a little. I am not suggesting to the board that they necessarily rely on the opinion of the family doctor. I was referring to treating physicians, and I include specialists in that because I do not see many cases where at least one specialist has not been involved in the case. It seems to me that you should not be attacking the integrity and credibility of private practising specialists because they have no axe to grind with the board. They also have developed no relationship with the worker. They are simply seeing this individual on a consulting basis with the family doctor.

The family doctor is the one who treats for the common cold and for a host of other medical problems and may have developed a relationship with the injured worker as a patient, but that

relationship does not exist with specialists, and it seems to me that we should be able to rely on the opinion of our specialists.

Ms. E. J. Smith: Hang on. I specifically said family doctors. I was not referring to the specialists. I was talking about Dr. Henderson referring to an almost natural bias with family doctors, and it seems to me that along with a natural bias is the difficulty of a family doctor to take a case against his own long-term patient. There is a certain element of: "I should be on his side. He has been my patient for 30 years, and he is going up there to the board."

I think there is a certain naturalness in that reaction. I do not know how you can cope with it, and I do not know what the forms say, whether the family doctor should simply raise the injuries in medical terms and not make a judgement out of them. That would take him off the hook of saying, "He has this, this and this," and that is it, not whether he can go back to work. Maybe he can go back to work if he is a lawyer but not if he is a construction worker.

Mr. Slinger: You are putting the family doctor in a very difficult position and a position that I think most family doctors do not want to be put in. As I say, we have the benefit in almost all cases I have seen of having specialists report, and it seems to me to be absolutely commonplace for the board to accept their surgical consultant's opinion over the opinions of the private practising specialist. That is something that cannot be understood, and I do not think it can be justified.

Ms. E. J. Smith: I feel there is a particular problem here about family doctors, and I do not know if it is being addressed. To relate to another field, there was a great deal of difficulty with family doctors in child abuse. I am sure they could see it for themselves but they thought they could help more by not reporting it, until it became against the law, and then the whole picture changed.

Mr. Henderson: I just want to underline two or three things that seem to be important. I have really put a lot of thought and reflection into this question of so-called objectivity on the part of physicians. Notwithstanding the fact that I am one and that on occasions I have pretended I was very objective, I do not believe in it anymore.

I think physicians are much less different from most other individuals who offer opinions about things than they believe they are. I truly believe that however much their opinions may be rationalized one way or another by so-called objective findings, they ultimately end up offering a point of view, and many unconscious

factors go into determining the point of view. I do not so much believe any more in the objectivity of a so-called objective examination. We ran into this a lot in the Ombudsman committee, and I think we saw very clearly how the biases can be teased out if you look at a particular situation very carefully.

Maybe along the same lines, a few delegations have commented to us about family physicians versus specialists. I think we should not be in any great rush to demean the value of the family physician as such. I think it is far more important whose family physician he is and whether he is with the board or whether he is the patient's or what have you. It seems to me the family physician has every bit as much right to want to be heard on some of these questions as the specialist, and the kinds of issues that are being addressed, although they may seem to be specialized, often are much more matters of opinion and familiarity and, by the very nature of them, subjective points.

Mr. Martel: I will just clarify something for you. Why all of us get trapped into this family physician and specialist versus the board doctor is that if you go with just a family physician's report you get the hell kicked out of you 100 times out of 100, because the board will not accept the position of the family physician. All of us bring in a specialist because there is no chance of winning a case unless you have a specialist's report. That is why these people are saying what they are saying, doctor.

Mr. Slinger: The board has demeaned family doctors. We do not want them to go one step further and demean all specialists as well.

Mr. Martel: Exactly. This is the point I thought I was making.

Mr. Chairman: You probably were.

Mr. Martel: The family physician has as much right to be seriously considered in his opinion as a specialist does in his.

Mr. Chairman: We have a couple more people on the list. I would urge you to keep your questions and answers to the point. Mr. Barlow and then Mr. Ramsay.

Mr. Barlow: I know how much time my office spends on WCB cases as part of the total work load.

How much time does an association of clinics spend on WCB cases as opposed to any other case load that comes before you?

Ms. Clarke: I could address Kitchener-Waterloo and Cambridge because that is the area I service, the region of Waterloo.

We started the clinic five years ago with three staff members; one lawyer, one field worker and support staff. I was the original community legal worker associated with the clinic.

We had to expand our clinic to two lawyers and two community legal workers and two support staff. Our two community legal workers do 80 per cent workers' compensation work. That is not including the fact we have many local MPPs who are doing a lot. They have told me that at least in Kitchener-Waterloo they are doing 50 to 70 per cent, and sometimes 90 per cent, of workers' compensation constituency assistance.

Mr. Ramsay: My question follows up Mr. Barlow's. I presume your services are fee-for-service?

Mr. Slinger: Non-fee-for-service.

Ms. Clarke: Non-fee-for-service.

Mr. Ramsay: Who sponsors you?

Mr. Slinger: The legal aid plan.

Mr. Ramsay: Have you any idea how much money is involved through the association. Can you give example of one of the clinics or something?

Mr. Slinger: Let me do some guessing again. There would be \$10 million being paid by the legal aid plan for legal clinics. Our clinic is a general community clinic doing a variety of things. Thirty to 40 per cent of our work is workers' compensation. So let us take 40 per cent of the pool and say that \$4 million is being funded on behalf of injured workers.

Mr. Gordon: And that is just in that area.

Mr. Polsinelli: I represent the riding of Yorkview, which was formerly represented by Michael Spensieri. We did some rough calculations to the case load that he handled for the four years he was there. We estimated that about \$750,000 was returned in benefits because of his assistance in workers' compensation matters. If one MPP can return \$750,000 in four years, it gives a clear estimate of what the picture is really like.

Mr. Martel: There is nothing wrong out there. What the hell's the matter with you? You can't have it both ways, you know. Some of us are just living in the past.

Mr. Chairman: Questions from members of the committee, Mr. Martel, do you have a question for members?

Mr. Martel: I only have one real question. There is a chairman and I who disagree on the value of changing—

Interjection.

3:20 p.m.

Mr. Martel: I will not say. I am trying to protect everybody here—who have a slight disagreement on the files. I heard someone mention that if you have 10 memos the tenor of the case can change substantially from point one to point 10. I happen to believe that although others do not.

I want to know one other thing: Is it your experience that there are a lot of investigation reports in these files, that they have sent maybe five, six or seven such reports?

Ms. Clarke: There are if the worker has made an attempt to appeal or has really stressed trying to get the claim through. I would suggest that the cases I have done in industrial diseases have been particularly bad with regard to investigations, and those are the ones that usually require a lot more investigation. I just received one that I will definitely appeal.

I would suggest, and John has indicated to us several times, that he treats the appeals adjudication as a discovery. You simply go in and put the adjudicator to the task actually of doing the investigations for you, some things that had to be done and should have been done before we were ever in there. You really are not always arguing a lot of legal issues as much as saying that there is basic information out there, here is some of it and we know there is more.

Mr. Slinger: Actually, Mr. Martel, I presume when I see an investigation report that it is either inaccurate or incomplete or both. My position is to subpoena all the people he spoke to so we can find out what they are really saying.

Mr. Martel: Would you agree that Mr. McDonald would have to eat paper, if I were to bring in my files, where he said there were very few instances since 1965, reporting a rewriting of the accident reports?

Mr. Slinger: I really do not know.

Mr. Martel: You must have seen them when you were doing them. Did you come across investigation one, the original investigation; investigations two, three, seven and eight? That does not happen any more. You did not know that?

Ms. Clarke: We would not necessarily comment on the field investigations. I would be more likely to comment on the memo history. When you pick up the file and it has 500 memos in it, that is a problem. You notice that the comments get much more curt and are very much less likely to be informed, so what you tend to

have is an attitude by the claims adjudicator gained through the file, not necessarily on the field investigations. In my experience it is the attitude of the person working the file and whether it has been changed over, because in long claims it goes through a lot of hands.

I had one file that had at least five claims adjudicators on it in one year. It is awfully hard to argue with one claims adjudicator and then phone a month later and argue with another one who has no idea why you were arguing the first time. The memos I get back on the discussions we have had are not the discussions I have in my memos in my file.

Mr. Martel: I am certainly glad there is nothing wrong with the board.

Mr. Craig: I would like to comment on the other point. I know you are pressed for time, but it is worth making. When I go through a workers' compensation file I make a very careful chronology of the obvious things, like what the injury was, how it occurred, what the diagnosis was and what the treatment was. It is my common experience that if I start at the beginning and work through, I will come upon some information. I will make a note that the injury occurred this way and a little later on I will find that the treatment was this, so I will write that down.

Then I will come to another memo or another report, and it is not quite the same. It was a different injury or the treatment was a little different, so I will scratch that out and I will put down what it says. It is quite common to get four or five as you go through; you are scratching out and replacing. It is always a little different each time. It is commonplace to see in the same file five slightly different, or even not slightly different, descriptions of how the accident took place, what the injuries were and what the treatment was.

Mr. Chairman: Thank you very much. There is obviously a great pool of expertise represented in your organization, and we appreciate very much your coming before the committee.

Up to now a lot of the presentations before the committee have had a particular point of view. I think we are going to hear now from an organization that has a very balanced point of view and will certainly present both sides of the issue, and that is the New Democratic Party Constituency Assistants Association.

I do not have to ask your names. I would like to welcome James Herman and Peter Legacy to the committee and express our appreciation to them for coming here. Are you presenting the brief, James?

Mr. Herman: Yes.

Mr. Chairman: Go ahead.

NEW DEMOCRATIC PARTY CONSTITUENCY ASSISTANTS ASSOCIATION

Mr. Herman: I would like to start by pointing out that our presentation here today is based not on our politics but on our experience. I think that is really important, and we have definitely tried our best to maintain that, I think successfully.

This brief was put together by a number of people, and there is one glaring error: "Bill 32" should read "Bill 101." I apologize for that.

I would like to thank you for the opportunity to be here today. We in the New Democratic Party Constituency Assistants Association do a lot of work with workers' compensation. I assume that members' constituency assistants in other parties do a lot of compensation work in various ridings. There are a lot of problems to be addressed with the compensation board. It is very simple: It is a very frustrating job representing injured workers in Ontario.

We have cases in my office that have been open now for six, seven, eight and up to 10 years. These are not hopeless cases. These are cases on which we eventually win something. It is important to note that an injured worker is somebody who has worked in Ontario, contributed to the province economically, often has your standard, basic family, mortgage, car payments, etc. and is suddenly put out to pasture for eight to 10 years and told he does not exist until we can finally get things straightened out.

More of our cases take two, three or four years than take eight, nine or 10 years. That is an outrageous length of time. We do, however, support some of the things the board has been doing, and I think we have mentioned some of them here.

We do endorse recent announcements that would index pensions automatically and not wait for the Legislature to get around to it. We also think it is a good idea to put the responsibility for hiring injured workers back on the accident employers. That is a wonderful idea if it is introduced. It is done in a number of countries in Europe. It is not a new idea, but it is a good idea.

I would also point out that what we have talked about here are not all of the problems we perceive at all. We have tried to take out some specific areas and make some recommendations that we think are very reasonable.

Regulation of the act: There are a lot of times when both injured workers' representatives and

injured workers have not agreed with the interpretation of the act. There is very little we can do about that. We go to our hearings. We say, "Listen, the act says this," and the board says, "No, the act does not say that."

In a dispute on unemployment insurance you can go before an umpire. The umpire is a Federal Court judge. It is a fairly quick process; it is a fairly easy process for both the worker and the representative to go to. It does not require a Supreme Court lawyer or anything, but it does allow for the courts to interpret an act.

I find it a total outrage that the compensation board gets to determine what its act means in volumes and volumes of literature. There is no recourse beyond that. It is just not fair in our system of justice. It does not make sense. Two examples are brought out in our brief that probably describe the situation very well.

Unemployment insurance earnings are not used to calculate the basis for a pension. This is discrimination in the case of seasonal employees, who work for six or eight months of the year and are assessed for their pension level on what they earn for a full year. Obviously, the pension rating they get when they are injured and unable to go back to whatever job they did is half or three quarters of what they should be getting on the basis of what they were earning. The board has interpreted the act to mean that nobody has the right to question that interpretation, apparently. I suppose we can question it, but we cannot in any way help to change that interpretation.

3:30 p.m.

Another example is that the act states that the loss of earnings capacity should be considered when determining a pension level. The board has refused to do this even though the Ombudsman, this committee and another committee of the Ontario Legislature have all recommended that this is what the act says. It is black and white, but the board says, "No, that is not what the act says," and there is no recourse.

Not only do the workers not have recourse to any kind of judicial review of the interpretation of the act, but the board is, I would say, disrespectful of the Ontario Legislature, whose members obviously know what the act means because it comes from this place. It is very frustrating to have the system responsible for administering an act also be totally responsible for interpreting it.

I would point out again that it is very important that a judicial review of some sort be set up, but in such a way that it be accessible to injured workers and their advisers. We are not suggest-

ing an expensive system where you have to hire Bay Street Supreme Court lawyers. That would be absurd and take years to go through. We need something fast, efficient, easy to understand and easily accessible.

The next area we would like to deal with is benefits, not workers' compensation benefits but those such as unemployment insurance and the Canada pension plan. There are others such as dental plans, pension plans and so on, to which a worker would normally be entitled.

Everybody at the compensation board, everybody who represents injured workers and everybody in the Ontario Legislature refers to the people who are dealing with the Workers' Compensation Board as workers. It is unfortunate that, in the case of unemployment insurance, after a period of time you do not qualify for these benefits any more, even though you have paid into it sometimes for 30 years.

In the case of the Canada pension plan—and I have cases such as this in my office—a worker tries really hard. The rehabilitation counsellor at the board says, "You have to be out there looking for work." I say, "Yes, they are going to cut you off if you do not." The family doctor says, "The person cannot work just now." I say, "At least go out there and try, because you are in trouble if you do not." This person says: "I want to get back to work. You know I do. I am not getting the income I used to get. I want to work." He goes out and tries. Sometimes a number of years pass. This worker is still trying and, bingo, it is too late: Your Canada pension disability is not available to you any more. Believe me, a 20 per cent compensation pension is not enough to live on.

We are suggesting that a means be set up so that unemployment insurance, the Canada pension plan and, we hope, other benefits available to workers while they are in the work force, continue to be paid while they are on compensation. We all call them workers. They should be considered workers and respected as workers and get the same benefits as other workers in our society. This is not something in addition to what they are entitled to. They are the simple entitlements of workers.

We have heard rumours—and we wanted to address this because of these rumours in the next section on page 4 under "Assessment"—that the board, the Legislature or a group of people are considering going back to individual company assessment instead of industry-wide assessments for payment of assessments to the compensation board by the employers.

We find that questionable in the first place because it puts the onus on individual employers to pay more if their accident rate is more. Therefore, there is the obvious incentive in the case of good employers not to have as many accidents and to have a safer work place, and there is the equally obvious incentive in the case of bad employers just not to report accidents and not to admit they happen. Anybody who has done injured worker cases has done entitlement appeals because the employer has not reported it the same way. Again, going back to the previous one, the investigation by the board was not complete.

We are suggesting that if it is deemed a good idea to go ahead with individual employer assessment as opposed to industry-wide assessment, there be major fines levied against any employer who does not report an accident. We suggest that the first-time offender should have a fine of between \$5,000 and \$10,000 levied against him and that these fines should be increasingly punitive. We are dealing with human suffering here that does not need to occur.

If we find that all employers are good and that this is not a problem, then obviously this money would never have to be collected, the investigations would never have to be done and there would be no problems. But if the fine is in place and is acted upon, it would be an incentive to treat the workers properly.

On page 5 we speak of pension supplements. This is an area that is of serious and great concern to us. We deal with it a lot, over and over again, and all of us who have discussed this have found that we have the same problem. It is not one or two offices dealing with this; it seems to be a universal problem.

The system is wrong in the first place because you are often dealing with a rehabilitation counsellor. Any rehabilitation counsellor at the Workers' Compensation Board will tell you he or she has too many people to deal with on an individual basis, yet he or she has to make a decision.

Because the counsellors do not have any time for investigation, they will talk to a worker for five or 15 minutes and then make a decision on whether this person should receive a supplement. In other words, they make a decision on whether this person can feed his family, pay his mortgage and live a decent life. These decisions are, by the nature of the system, arbitrary and judgemental.

We have not encountered this extent of arbitrary and judgemental decision-making in any other agency, board or government depart-

ment federally, provincially or municipally. There are usually some facts involved in most government decisions. In this particular case there are often no facts involved. It is just a decision: "I do not like this guy; I do not think he is co-operating; I think he is not telling the truth. Therefore, he does not get anything."

It is the wrong way to make decisions and it is that simple. I do not know whether under the present system, in which there is a phenomenal number of cases for any given person to deal with at the board, it can be any other way. That has to be dealt with. It is a really serious problem.

The other problem with the supplements is that they are often based on the opinions—and this was dealt with in the previous submission—of a medical consultant who works for the WCB. To our knowledge, most of these consultants are not specialists. They have seldom, if ever, seen the injured worker. The last submission dealt with the number of cases that these consultants look at, and again it is the same problem. You have to make an arbitrary decision really quickly because you have to go on to the next case.

We just do not feel that this is acceptable. These are people who in a lot of cases are not qualified to make these decisions. Maybe they are qualified through experience, but they certainly are not through credentials. We are dealing with people's lives. We also do not know how we can complain about a particular doctor at the board. We have not found a way to do that. It is not that I have any complaints personally against any individual doctor, but it would be nice to have a way to say, "We think that over and over again this doctor has made bad decisions."

3:40 p.m.

When the board doctors actually do see a worker, I have gone to these assessments with injured workers as a representative. I cannot go in for the actual examination, but I can assure you these examinations are very quick. Family doctors are notorious for being quick these days because of the system, but my own family doctor spends a lot more time with me than these board doctors, who are dealing not with a common cold but with the rest of a person's life.

Mr. Martel: How much time does the average constituent you represent say is spent on an assessment? I have a figure in my mind—I will write it down so I cannot change it—which will indicate the number of minutes that most of the people I have talked to tell me it takes for the assessment of a permanent rate.

Mr. Herman: Recognizing that this is a guess, from sitting in the waiting room, walking

into the chamber, removing any clothing necessary, having a chat with the doctor, the doctor doing the complete physical he claims to do and walking back out—and some of these people are walking very slowly with canes, because I deal with a lot of back injuries—I would say five to 10 minutes.

Mr. Martel: My people tell me less than five minutes.

Mr. Herman: The actual examination would take less than five minutes, I would guess.

Mr. Martel: Yes, and that is an assessment. You will never get an admission of that. You will be told over and over again that it takes at least 30 minutes. They will argue that when the man came to Sudbury for the doctor to assess him it took this length of time. I have yet to find a worker who said he was seen for longer than five minutes. The doctor never even laid a finger on most of them, not even those with a bad back. They say the doctor did not even put his finger on their backs to see what was wrong.

Mr. Herman: Not only that—

Mr. Henderson: Can someone not time it? You are just talking about how long the patient spends—

Mr. Martel: We do not go for that sort of thing; there is not much sense in any of us going because you do not have an opportunity to have input. You are so damned busy you do not go, but I have never had a worker tell me it took more than five minutes.

Mr. Herman: I am not suggesting that a longer period would necessarily give better quality; what I am suggesting is that a shorter period of necessity does give less quality. These examinations are cursory at best; they are not done in depth. Yet you can walk into what they call an interview five minutes later and be handed a pension rating on the basis of that examination. This is a pension rating that is supposed to last the injured worker his whole life, and it is just not acceptable.

The other problem—and we have dealt with this at some point in the questions on the last one, but I have further comments—is that in many of the cases I have dealt with the attending physician's opinion is totally ignored unless it backs up the board. It is just not taken into account and there are some reasons that it should be.

One is that the rule of the board is that you must obey your doctor, but if you do obey your doctor the board cuts you off. Another is that it is the attending physician who saw the person when

he arrived at the hospital or left work and was taken to his doctor, or whatever, through the whole state of the injury. I am not saying family doctors are less biased than other doctors, but I am saying their opinion is the most informed from a sense of having dealt with the situation over a long period.

There are going to be times when the board or an outside specialist disagrees with the family doctor. That is one of the good things about the system; one doctor can find one thing while another doctor may not be able to, so you can go and get a second opinion. That is wonderful. In the case of the compensation board though, if your family doctor, whom you have been trusting and relying on for so long while trying to get back to a state of life where you do not have to live in constant pain, tells you something and you obey it, you can be cut off completely.

A fairer system would be that the family doctor's opinion comes first. If somebody feels it is wrong, then it is acceptable practice to get a second doctor's opinion, which for public relations reasons if nothing else should be from outside the board. The doctor should be a specialist who has nothing to do with the board and the worker should continue on benefits until that second opinion, which demands a detailed examination; not a consultation but an actual examination of the injured worker at the present moment to determine what the injury consists of.

If the outside examination by a specialist then reveals that the original thoughts of the board or another specialist were correct, that is fine. I do not see any way we can argue with that, but at least the family doctor and the injured worker are given the benefit of the doubt initially. Otherwise, you are telling me and you are telling the injured workers, very simply: "Do not go to your family doctor. Your family doctor is useless."

When you do not go to your family doctor because your family doctor is useless, you come back to the board and it says, "There was no continuation of treatment." It is a real problem and it happens over and over again. The family doctor has to start being respected. I am not saying there should not be other opinions, but the other opinions should be sought before the family doctor's opinion is condemned. I do not know how to stress that strongly enough because I have found this in literally hundreds of cases myself, without dealing with other offices.

Mr. Henderson: Would you say what you just said one more time so I get it straight in my mind?

Mr. Herman: What we are proposing?

Mr. Henderson: Yes.

Mr. Herman: Very simply, when there is a conflict between the family doctor's opinion and a specialist and/or the WCB, the family doctor's opinion should be initially accepted while another outside specialist's assessment is sought—not a consultation, but an assessment—and during the period until the report on that assessment is available, the injured worker should be paid the benefits.

If it turns out the family doctor was biased or uninformed or wrong, fine; but during that period at least I should not have to say to the family doctor, "Please send this guy to another specialist because then, when we get that report, we may be able to appeal six or eight months down the road." That time frame, and the loss not only of dignity but of respect for the family doctor, the loss of money and the loss of the dignity of the injured worker, are phenomenal and they happen often.

The next thing we would like to discuss is on page 6, the hospital and rehabilitation centre at Downsview. I think, and the people in our association think, that the idea of having a hospital and rehabilitation centre to deal specifically with job-related injuries is a wonderful idea. As the previous presenter said, however, the fact is that a lot of people come out of there with more complaints than they went in with.

It is true that they do. They may be real or imagined, I do not know. It does not really matter. If they are real, there is a problem with the process there. If they are imagined, there is a problem with the treatment of the injured worker by the staff there. If they are both, we have two problems.

There really is a problem at Downsview. Workers feel they have not been treated with dignity. They feel the therapist may be saying one thing and their doctor may be saying another thing. They feel they are getting conflicting information. They do not know what to do. They do not know how to co-operate. They are often forced into situations where they are in extreme pain and somebody will say, "Don't worry about it; keep going."

We all know there have been injuries at Downsview. I suppose that cannot be helped in any situation, but there have been a number of injuries that actually occurred at Downsview. They are compensable, but that is hardly compensation for the pain and suffering.

One of our group actually tells workers now when they go to Downsview to take a notepad and a pencil and to write down the time, the place

and who gave them instructions and what those instructions were, so when the next set of instructions comes along they can open their pad and say: "Just a minute. I was told that two hours ago. Please, which am I really supposed to do?" Then they write that set down, because they may have to take that to the board when the report comes out that they were not co-operating at Downsview. Apparently they get better treatment at Downsview when they do that.

3:50 p.m.

Unfortunately, in my case I deal with a lot of people who have no skills in English and who are not in position to do that because they cannot read and write. Of course, there is no training for them because they had a grade 4 level education somewhere in the Mediterranean and, therefore, the board deems they are not re-educable. So they will never get the skills in English they need if they ever want to get back to work. I cannot approach Downsview that way in most cases, but it is one approach. It is a sad thing to have to do.

There is obviously a real problem with communications between the staff and the workers, and it appears, although this is hearsay, between staff members themselves at Downsview. You can see that by reading reports. You can read a sociological report and a psychiatric report and a rehabilitation report and a physiotherapy report, and they all have different points of view. Obviously, they result from different disciplines; rather than a co-ordinated effect there are completely different assessments of a person.

We are recommending that a worker adviser be placed at Downsview. This worker adviser position should be different from the ones created recently at the WCB. The worker adviser should be an advocate on behalf of the injured worker to the Downsview staff. The worker adviser should also have the power, which is essential because just going and talking is not going to help in the long run, to mediate and arbitrate in disputes between workers and staff.

Mr. Ramsay: On the spot.

Mr. Herman: Right on the spot. What is the problem here? What do we do about it? Let us deal with it. Let us not take six, eight months, a year and a half from now to an appeal hearing and have to have a credibility thing on whether we trust the worker or trust the staff at Downsview. We feel that would solve a number of appeal situations right there.

We do not think it is a major problem that cannot be overcome by having somebody who can represent the workers right there on the spot.

We do think that Downsview, the type of centre that is envisaged in a rehabilitation centre, is a good idea. We are not condemning the idea, just hoping there are additions to that idea so it works better.

It is important that people come out of Downsview feeling, if they are told to go back to work, that, "Yes, these people did their best with me and I trust them. I am going to go out there and I am going to work." It is important they do not come out of there with an attitude expressed in words I could not say here.

Mr. Martel: Maybe we should send out Mr. T to protect them.

Mr. Herman: Sure; it sometimes appears to be necessary.

Mr. Martel: The number of calls I get directly from Downsview is quite astounding.

Mr. Herman: We would like—

Mr. Polsinelli: You might be interested to know the hospital happens to be in my riding. It is even a poll.

Mr. Martel: I have visited Downsview on occasion, in addition to being a patient there. They threw me out, of course. I was not very co-operative.

Mr. Polsinelli: I think you and I should pay a personal incognito visit up there.

Mr. Martel: I will go with you. Unannounced.

Mr. Polsinelli: Unannounced.

Mr. Herman: That might be a good idea actually.

Mr. Polsinelli: How about next week?

Mr. Herman: Was that the announcement?

Family support is mentioned on page 7, very briefly. We think it is something the act has not addressed. In our riding there are a number of cases where both family members are on compensation benefits. Both wage earners in the family are on compensation benefits. There are children involved, and one parent may be in hospital.

Even in cases where there is only one wage earner and one might assume the second adult could go out and earn a wage, the person may have little or no skills and be 45 or 50 years old, and therefore not acceptable in the work place.

There should be some kind of support for the families of injured workers. We have just started thinking about this in the sense of putting this down, but the support could include somebody like a homemaker for a family where one or both

adults are injured. This may affect single-parent families as well.

Where somebody is in the hospital, or the care of the injured worker at home demands so much time that the children are neglected, child care may be required so the other parent can go out to work or so the parent can visit the doctor or Downsview or the compensation board. To my knowledge, support service for the families of injured workers has not been addressed.

We want to deal with three areas of the new act. I will be brief. First, the earnings basis for pensions under the new act is calculated on the hourly or weekly rate of pay, whichever best reflects the worker's earnings. I am not sure how they decide whichever best reflects, but that is not the point of the brief. Either the injured worker or the employer can ask the board to recalculate the earnings basis, not on the hourly or weekly rate of pay but on the earnings over a 12-month period prior to the accident.

The board has interpreted that to mean that if this application is made, the 12 months is accepted, bingo. The act does not say that but that is how the board interprets it. It is pretty easy. If you are injured, you get a rate on your earnings basis. Your cheque comes and it does not look very good to you. Compensation cheques generally do not. You say: "Listen, recalculate it for me, will you? I understand I have a right to ask to have it looked at over a year."

Unfortunately, it develops the company was on layoff for the first two months of the year, which you had not calculated when you were considering this, and you are missing two months' salary out of the year. Not only is the amount that you were having a hard time living on initially not accepted, but you are forced to live on a lower rate that does not accurately reflect your earnings.

If the board is going to do a recalculation, and certainly if it is going to be applied by necessity, it should be based on the total wages earned in that 12-month period divided by the amount of time worked, rather than a full year during which the worker may have been on layoff or sick.

The second area I would like to deal with is survivors' benefits. The new benefits for survivors are quite good. They allow spouses of workers who died from their injuries to be retrained and rehabilitated with an opportunity to enter the work force, thereby supporting the family. In the long run that probably saves society a phenomenal amount of money and also allows, under very difficult and sad circum-

stances, a certain amount of human dignity to the family of an injured worker.

The only problem there is that for accidents that occurred before April 1, 1985, and there were a number of deaths in Ontario in the work place before that time, there is virtually nothing but a coffin for the spouse. In some cases, if you had a very cheap funeral, the compensation board amount paid for the funeral, but that was about it. We are asking that this committee seriously consider, from a humane point of view, making this aspect of the act retroactive. It might save a lot of welfare payments over many years to a lot of families in this province.

4 p.m.

The third area I want to deal with is exemptions. We are pleased that Bill 101 includes domestic workers. There are a number of areas that are not included under workers' compensation. Two examples I put in were people in fitness centres and beauty salons. If you are injured on the job at a fitness centre you are not eligible for workers' compensation. If, when you start work, as somebody wise would do in that situation, you go to an insurance company and say, "I would like disability insurance because I am afraid I may get injured on the job"—that is what you would do in athletics, and this is an athletic profession in most cases—the insurance company says, "Sorry, you are a high risk and we do not want to give you insurance."

In the case of beauty parlours you are often dealing with chemical substances, wet floors, hair on floors and so on. You can slip, wreck your back and you are out of luck. Therefore, we think all workers in Ontario should be included. Those are the two examples we chose; there are other areas.

We have addressed some of the problems here today, but certainly not all of them. Most of the ones we have addressed have come to our attention and we have dealt with them on a very personal and often long-term basis over and over again in our offices. We think it is very serious, and we trust the men and women on this committee will take this very seriously.

We are talking about people who have led and wish to lead a fully productive life in our society. If that is taken away from them because of an accident that is generally no fault of their own, they should at least be able to have the dignity and respect which they deserve. Some changes are needed before that applies in all cases.

Mr. Chairman: You have raised a number of issues that have not been raised before. You have also put some differently. For example, your

question about experience rating has not been put the way you put it in your presentation. It was debated quite hotly at times when the new bill was going through the clause-by-clause stage. In the presentations before the committee, most of the comments have been supportive of experience rating, whereas you are raising a flag that says, "Watch out for experience rating because it could backfire."

Mr. Herman: It has backfired.

Mr. Chairman: Yes, because it is in effect for a couple of the industries already, including construction.

The other issue is the whole question of the workers' adviser at Downsview. That is a new and interesting suggestion which we have not had put to us before.

Mr. Herman: We felt that if we were going to complain about something we should offer a solution.

Mr. Chairman: You strike a responsive chord in me with the groups that are left out. In my constituency office right now we are dealing with someone who was hurt at a fitness centre in Sudbury.

Mr. Herman: That is correct.

Mr. Chairman: It is bizarre that they, as workers in a fitness centre, would be exempt; therefore, you strike a very responsive chord in me with that one.

Are there questions from members of the committee? I think, as you went through it, you explained each point rather than just reading from it; therefore, I think members feel they know exactly what you are saying. We would like to thank you very much for your presentation. It will be helpful. We will make sure you get a copy of our report when we are finished making our recommendations.

Mr. Herman: I would appreciate that. In fact, several copies would be nice.

Mr. Chairman: You will get them.

The next group is the Ontario Federation of Labour, which is not new to this committee. They have appeared before us on numerous occasions.

For members of the committee who do not know, the gentleman pouring the water now is Ed Waddell; I believe he is the director of occupational health and safety at the OFL. To his right is Hugh Peacock; some of you may not know that he is a former member of the Legislature from Windsor. We welcome Mr. Peacock and Mr. Waddell to the committee and we look forward to their comments.

Mr. Martel: Mr. Peacock and I came in together. We will not say when.

Mr. Chairman: He is not guilty by association, though, Mr. Martel.

ONTARIO FEDERATION OF LABOUR

Mr. Waddell: Before getting into the brief, I want to thank the committee very much on behalf of the OFL for having us here today.

We can certainly appreciate that since your hearings started you have heard a lot of concerns expressed relating to workers' compensation issues. You have a copy of our brief. You will notice it is a brief brief. Actually, what you are looking at here are two very dedicated people who did not go to the Blue Jays' games. I think that should be taken into consideration.

Mr. Martel: There are some sitting here, Ed.

Mr. Waddell: I was not here all that long this afternoon, but I listened very closely and I think some very good suggestions have been made; the one with respect to Downsview was an extremely good one. Elie, I have timed the time from anywhere at between five and seven minutes. It is seven minutes for a complete one; so you were not too far off base.

I want to start off with one little quote. This was said to me by a board commissioner in the presence of other people a few years back. He said, with respect to board policy, "Ed, it is not their policy to give as much as they can but as little as they can get away with." If you just bear that in mind you will at least know where the federation is coming from, because I believe that person. I cannot have him here today because I do not have the power of resurrection.

This committee is no doubt familiar with the Ontario Federation of Labour's involvement in all aspects of workers' compensation in this province. Although the OFL is primarily concerned with legislative matters, it does not confine its activities to only that area. For many years the federation has actively concerned itself with day-to-day problems of injured and disabled workers. In this respect, the OFL is a service organization assisting affiliate members and other working people, either in the classroom or for counselling and appeals.

The federation also had representatives on the Workers' Compensation Joint Consultative Committee from its inception to its recent demise. Therefore, as we appear before you to comment on the 1984 annual report of the Workers' Compensation Board, it can be said that we speak with some degree of knowledge based on hands-on experiences. Unfortunately,

we have had too many sad experiences over the years.

It is not our intention in this presentation to relate in detail what have been commonly termed "horror stories." They have gone on, are still going on and must cease. We will focus instead on why they exist; what the cause is. We will be using one of the board's favourite questions: is there a causal relationship? We will say there is unquestionably a relationship between the problems of thousands of injured workers and the actions of the WCB authorities.

We will not cover the long list of changes required for the protection and wellbeing of injured workers. We have made our views and policies known many times to all who are in positions of influence and political power. Instead, we will address relatively few issues. Our emphasis will be on the cause and the recommended solutions.

Like most people, disabled or injured workers have a variety of needs: adequate income, suitable accommodation, education, health care and recreation. Some injured workers require improved modes of transportation, but for most people, able-bodied or disabled, a job is the single most important necessity for the fulfilment of these needs.

There are essentially two phases of rehabilitation: medical and vocational. During the period of medical rehabilitation, injured workers are most concerned with medical treatment and the progress of their recuperation. Their immediate financial needs are met, to a greater or lesser degree, by compensation benefits.

When the medical treatment phase draws to a close and the family doctor or specialist advises a return to work, the worker is confronted with the challenge of resolving future needs. It is at this point that the fear of employment security becomes most intense. The worker is often uncertain of how much activity he or she can engage in before experiencing recurring effects of the injury.

What happens if the employer has no work available and suitable for the worker? With questions like that in mind, the worker approaches the employer to discuss his or her future with the company.

Most injured workers look first to the accident employer to provide some kind of light or modified work. An employer can usually do that when injuries are not severe or the original job was not excessively heavy. Some employers may provide modified work for a temporary period.

Others may offer part-time work with income supplemented by the board.

However, far too many workers are not so fortunate. After suffering primary physical injury, they are exposed to secondary emotional injury when the employer says there is no light work. They may often hear that they will have to do their original jobs if they want to work and that they are the responsibility of the WCB. That is, unfortunately, the way many workers are jolted into awareness of the vocational rehabilitation process. "They will retrain you; that is why we pay compensation." That is the word from the employer.

4:10 p.m.

While the WCB employs rehabilitation counsellors and placement and employment specialists to secure jobs for injured workers, there is a need to ensure that injured employees have meaningful and secure jobs, not just any job.

While the labour market is becoming more and more complex and skill demands are changing, there is an urgent need for improved training of the WCB rehabilitation counselling employees. The board has no in-house training for new or existing rehabilitation staff on how to understand or interpret collective agreement language. Only those with a labour perspective have any experience in this area. How can a WCB counsellor seriously negotiate the worker's return to work when she or he has little understanding of the language of the collective agreement?

Within the management of the vocational rehabilitation division there is an underlying disdain for labour unions. The prevailing attitude is that unions should be tolerated but that they complicate the rehabilitation process. This archaic and negative attitude must be changed to ensure that counselling and employment staff are sufficiently trained to understand workers' rights and collective agreements.

What needs to be done? There is clearly a need for a more comprehensive, co-operative and long-term view of vocational rehabilitation. Rehabilitation is not just something for the employer to leave to the WCB. Employers spend considerable amounts of money on research and development, inventory and production control and marketing of their products. However, precious little is spent on the human resource, its employees. Employers want to increase productivity but ignore injured workers' needs. All too often, the worker is treated like any other disposable product. This attitude represents a shortsighted, narrow and Stone Age industrial approach.

One of the greatest needs is legislation to place the onus on employers through the Workers' Compensation Act to adopt programs for returning injured workers to work. There are currently no immediate financial penalties for the unconcerned employer who refuses to take an injured worker back to work. The voluntary guidelines placed on industry have had no appreciable effect.

We cannot simply hope that industry will govern itself. Legislation must also protect the seniority rights of injured workers. Accident employers must be obliged to make serious efforts to return long-service workers to employment where modifications can be made. Uncooperative employers who continue to shirk their responsibilities must face sufficient financial penalty.

Regarding education and prevention, occupational health and safety training is but one aspect of what is required to dramatically reduce accidents, injuries, diseases and fatalities. The OFL knows the value and significance of an occupational health and safety education program. We have developed courses second to none that are now being copied by people who have been in the field for years.

However, education in itself is obviously not the total solution to prevention. The WCB has spent millions of dollars over the years on what is called teaching prevention. We know how to put guards on machines, place plugs in our ears and wear respirators. They are preventive measures; but what are the preventers doing about eliminating the real killers, the high levels of hazardous substances that workers are exposed to on a daily basis? Where are the voices of the preventers when standards are set that allow these excessive exposures? For at least the past 10 years, workers have been acutely aware of and have spoken out against these unseen hazards, but ours has been only one voice.

Employer-employee organizations give the illusion they are concerned about prevention. Surely the best prevention is to eliminate the cause. Ontario's exposure levels are higher than in many countries. Why? Employers argue it is too costly to set levels where labour says they should be. Workers' health and safety is a lower priority for them. Again, we get silence from the professional preventers. To remain silent, as far as we are concerned, is tantamount to condoning the continuation of work place health hazards that cause illness, disease and too often untimely death.

In June 1980, the OFL presented a 47-page brief to Professor Paul Weiler, who headed a four-year study on workers' compensation. We outlined in that brief the changes we thought were necessary to make the Workers' Compensation Act effective and protective. Needless to say, Professor Weiler paid little heed.

We have continued to participate in hearings, and when called upon to do so to present briefs, always bearing in mind we are engaged mostly in a debate over levels of benefits that workers and families will receive after the fact. Granted, this is also what compensation is about. However, the workers' primary concern is not how much they will receive from the system should they develop work-related lung cancer; their first and foremost concern is the cause and prevention of the disease. If we were all so concerned we would have come much closer to solving illness and death.

The WCB policies and criteria for recognition and prevention of work-related diseases have achieved one thing. It has allowed working men and women of this province to pay for their own funerals.

Our experiences with claims adjudication and the role of board doctors has been astonishing. Some members of this committee are quite well acquainted with the horror stories; so we will avoid detail. Simply put, the OFL's position is that there should be no position of board doctor in the board structure. Medical opinion and diagnosis of worker injuries, illness and disease must be free from influences and from the policies and guidelines of the corporate board.

Unfortunately, the opposite occurs. One can see evidence of this in claimants' files when involved in the appeal process. The OFL has said this before, and we do so again. Board doctors should not be adjudicating claims; clearly, that is not their role. Working for the WCB means adhering to board policy; it can mean finding cause to deny.

As we have stated, the OFL has had years of experience with the WCB. We have at times won appeals and reversed board decisions. However, thousands of injured workers in this province receive either inadequate or no compensation benefits. The cause can be traced to past policies and guidelines of the corporate board.

Board employees are required to work and make decisions according to company rules. When such rules are influenced by internal or external pressures that are not in the workers' interests, the workers lose.

The corporate board and other board employees have backgrounds in business and are acutely aware of the balance sheet. They also know the political influence of employers in this province. This business bias is, in our opinion, the root cause of injured workers' problems.

Board administrators have not formulated their policies and guidelines for dealing with claimants with much compassion. We appreciate that to be charged with the responsibility of administering such a large corporation does require firm administrative policies. However, there must be a separation between how one approaches investments and the balance sheet and how one approaches human needs and human beings. The corporate mind in most instances is not influenced to any degree by human needs.

There may be a light at the end of the tunnel, however. The new structure for the corporate board, the appeal tribunals, the industrial disease standards panel and the panel of medical practitioners may turn things around. It is our hope that such will be the case, that the new faces and different personalities will help bring about the reforms required and give us cause to refrain in the future from expressing the concerns outlined in this submission.

I want to add, however, that 40 years in the labour movement have taught me not to hold my breath while I am waiting in anticipation.

Mr. Chairman: Your presentation had two very common threads that we have encountered in the past two weeks. One is the problem with rehabilitation, and the other is the question of the board doctors. You have reinforced a common complaint that has been coming before us for the past two weeks.

Mr. Martel: Can you tell us how much money the OFL has received this year for its training program with respect to occupational health and safety?

Mr. Waddell: It is in the area of about \$450,000. For the initial one, which was the pilot project, we had about \$325,000. Then over three years we had about \$1.25 million, and then we got another \$400,000. It would not add up to \$2 million inside of five years.

Mr. Martel: It does not come close to the \$12 million received by the Industrial Accident Prevention Association this year.

Mr. Waddell: Or the \$30 million received by the Mines Accident Prevention Association of Ontario. We represent all the workers they do.

Mr. Martel: Yes, I was just wondering. We heard this last week, did we not? I recall asking the board that, and I was told it looked as if you were going to get—

Mr. Waddell: If I may interrupt, we have been receiving that from the Ministry of Labour, from those people who liked to gamble in the past on Lottario and that sort of stuff, but not from the board itself yet.

Mr. Martel: You have not received anything from the board?

Mr. Waddell: I understand it is in the cards.

Mr. Martel: Not the same amount, though.

Mr. Waddell: I have no idea. You will have to speak to someone other than myself.

Mr. Martel: The thing that worries me is that once again you people drive the point home better than anyone, that we could reduce injury and sickness if we had a program that dealt with occupational health and safety and not merely piling on more pieces of protective equipment. Cleaning up the work place is the real solution to reducing costs. I am sure you agree with that.

Mr. Waddell: Of course, yes.

4:20 p.m.

Mr. Martel: That is the only solution.

You might be interested to know that this week we were told—in fact the member for Timiskaming (Mr. Ramsay) nearly went out of his chair yesterday when someone suggested that tremendous influence by the members of this Legislature caused the Workers' Compensation Board to make changes that were very costly to management. Would you like to comment on that?

Mr. Waddell: I do not know what caused whom to do what. Traditionally, they start to move when fires are burning all over the place. They might put out the odd little fire here and there, hoping things will go away.

Mr. Martel: It is my hope that when we have finished with some of the recommendations before us this week we will lay them before the Workers' Compensation Board and the Ministry of Labour, particularly with respect to rehabilitation, occupational health and so on.

Mr. Waddell: If you noticed the end of our brief, we hope there is light at the end of the tunnel. As to my little facetious remark about holding my breath, I do not have to hold it that long. It is less than a year. We hope something will change. It is getting late and everybody wants to leave. We are totally convinced about what we have said here.

If you run a company and you are the chairman of the board or the president, you make the policies and the board people help you formulate them. That goes down the pike to the people. That is what happened at the Workers' Compensation Board. Some damn good people have worked there for years, well-meaning people. Anybody who has had any experience of dealing with claims knows full well what happens. Look at the files and see what the doctors who work for the board have said. They have to adhere to those policies. It is an absolutely ridiculous situation. I hope it will change. You are the people who can have influence in changing it.

Mr. Peacock: The two themes you mentioned you have been hearing throughout the past two weeks are issues that are coming more to the forefront in the labour movement's dealings, particularly with issues such as return to work.

The aspect of rehabilitation where the board could obviously achieve substantial savings is in spending more time and effort urging the employer to accommodate the needs of the worker who has been injured or who has become ill by reason of occupational exposure. In many instances, those modifications are not expensive and are not all that imaginative; they are pretty basic. They allow for considerable savings, not only for the employer or the board but also for the employee's own future wellbeing.

We very much want to ask your committee to stress to the board the need to emphasize to employers that, since the revision of the Human Rights Code in 1982, the law now requires that of the employer, as it does of the trade union to some extent when it is involved in the situation.

The employer must now ask himself three basic questions. What are the physical demands of the job the injured worker has left? What is the functional capacity of the injured worker to come back and perform the duties of that job? If you cannot match up the two, the worker's capacity with the physical demands of the job, how do you modify the job to make it possible? That is now the law of this province.

We simply have not been doing the job, and I suspect the board has not been doing the job of impressing that on employers. Those questions have to be posed and answered. The more we do that, the sooner we will get away from this syndrome of a worker being injured and then being referred to some other employer at half the rate of pay and in far worse conditions. The artistic woodwork syndrome is what some of us call it. It is often with a subsidy from the board

that an injured worker winds up in one of those jobs.

Mr. Chairman: Excuse me; by artistic woodwork syndrome, do you mean a low-paid job?

Mr. Peacock: I mean low-paid, revolving door situations. The other aspect is that we have to move away to whatever extent is reasonable from the medical assessment of fitness to return to work. There is simply too much dispute between employers' positions and workers' positions on readiness to return to work. In most cases, both of them are operating in the dark and have little knowledge of the relevance of the worker's condition to the needs of the job. In the future, there must be far greater reliance on the contribution other professionals can make to the assessment of when a worker is ready to return to the job and what modifications will make it possible for the worker to return.

Mr. Henderson: Which professional people?

Mr. Peacock: Occupational therapists, kinesiologists and ergonomists all have a role to play in addition to or in substitution for the company doctor or even the employee's doctor.

Mr. Henderson: I do not think you would get a lot of dispute from physicians about that. A lot of us do not like it when we are called on to do that type of work. We do not like the role we are cast in. We feel we are being asked to pronounce on things we are scarcely able to feel expert about.

Are physicians at the board monitored as to—let me back up. In a hospital, doctors are taking out appendices. The appendices are examined and a doctor gets a profile over a period of time as to whether he errs on the side of taking out too many or too few and as to how he stacks up. Is there a way of catching a doctor who tends to come down on a particular side of a question much more than the bell curve would indicate? That would be relatively easy to build into the board's self-monitoring procedures. I think it should be done.

Mr. Waddell: I certainly could not answer that. One does not get that close; I will tell you that much. It is not that open a process.

Mr. Martel: Some things are difficult to find out.

Mr. Chairman: We know there are doctors, for example in the Sudbury area, whose opinions are no longer valued by the board because they have been what the board views as pro-injured worker over the years.

Mr. Henderson: I am suggesting some formalization of what obviously occurs informally. It is not difficult to do.

Mr. Martel: Some time when one of your constituents comes to you and some doctor at the board has turned him down, you should write the doctor. Just for the fun of it, you should try to get an answer as to who the doctor was and what his expertise is. Try to find out on what grounds the doctor was skilled in making a determination. You will find it nearly impossible, if not totally impossible.

What you will find if you write a snotty letter, as I do occasionally, is that you are told you are irresponsible and are smearing the good name of some doctor at the board. I cannot even name the doctor because we do not know who is dealing with a patient. I am forced to smear the whole group because I do not know which one is making the determination. It becomes very difficult. It is so self-protecting that it is worse than the Ontario Medical Association or the Ontario Teachers' Federation.

Mr. Henderson: As to the idea that was discussed this afternoon of placing a workers' adviser at Downsview and similar places, I do not know whether it is generally known that concept was brought into the provincial psychiatric hospitals some half a dozen years ago. By and large, it is felt that it has been a good thing and is working relatively well. There is ample precedent for it. It seems to me there is a reason for doing it, especially at a place such as Downsview.

Mr. Chairman: I have used that service and it is very valuable.

Mr. Henderson: They call it the patients' advocacy service or something like that.

4:30 p.m.

Mr. Chairman: I have used it in the case of disputes involving constituents.

Are there any other questions? If not, thank you very much. A hearing by the standing committee on resources development on workers' compensation would not be complete without hearing from the Ontario Federation of Labour.

Before the committee adjourns, we should make a decision about tomorrow. We have one group appearing before us in the morning. It is the Simcoe County Injured Workers' Association. Then we can deal with the recommendations as to what we want to do.

There is a question as to what happens if we do not finish tomorrow. I have not seen the list Ms.

Madisso has been working on. We must come to some determination. If the committee wants to finish and go into Friday, the members should know that now and not be left with a last minute decision in changing their plans and so forth. If possible, we should try to make that decision this afternoon.

Mr. Ramsay: I suggest we make a determination now to finish the work tomorrow.

Mr. Chairman: If we can. I raised that matter to see whether it is possible; I do not know.

Mr. Ramsay: We should give ourselves a deadline.

Mr. Henderson: Some of us may already have tied our timetables down on Friday in a way that would make it very difficult to do otherwise.

Mr. Polsinelli: There should be ample time next week and the week after to work on the report.

Mr. Chairman: For example, we could try to do it next Wednesday.

Mr. Martel: I have already set up a meeting and invited in some 50 groups on occupational health.

Mr. Chairman: We will do what we can tomorrow and not sit on Friday. Is that the agreement?

Mr. Ramsay: Perhaps I may have the committee's indulgence for a second. Having the contrast of these last two weeks I am reminded of an opening line of Dickens. I am inspired by your literary illusion of yesterday. It reminds me of, "It was the best of times, it was the worst of times." I suggest our report be called *The Tale of Two Boards*.

The committee adjourned at 4:32 p.m.

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 Martel, E. W. (Sudbury East NDP)
 Polsinelli, C. (Yorkview L)
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From the Association of Southwestern Ontario Legal Clinics:

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 Slinger, J., McQuesten Legal and Community Services

From the NDP Constituency Assistants Association:

Herman, J.
 Legacy, P.

From the Ontario Federation of Labour:

Peacock, H.
 Waddell, E., Director, Occupational Health and Safety



Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Annual Report, Workers' Compensation Board, 1984

First Session, 33rd Parliament
Thursday, October 10, 1985

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, October 10, 1985

The committee met at 10:11 a.m. in room 228.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1984 (continued)

Mr. Chairman: The committee will come to order. We have with us this morning the Simcoe County Injured Workers' Association. Mr. Salisbury and Ms. Fenton, would you come to the table, please. We welcome you here. I have a meeting next door in about two minutes, so Mr. Ramsay will sit in my place. Ms. Fenton, do you want to join Mr. Salisbury and be a part of the team?

Ms. Fenton: Thank you.

Mr. Chairman: Go ahead.

SIMCOE COUNTY INJURED WORKERS' ASSOCIATION

Mr. Salisbury: Mr. Chairman and members of the committee, you have had an opportunity over the past number of weeks to hear a number of briefs on the tragedy of injured workers in Ontario. I do not intend to add to that litany but will address my comments to specific recommendations that I have asked this committee to make.

I am a solicitor with Simcoe Legal Services, and Simcoe Legal Services Clinic acts as counsel to the Simcoe County Injured Workers' Association. I was advised this morning by Mr. Decker that members of the committee have not had an opportunity to review the brief, which was sent down at the beginning of the week, so I will be addressing my comments following along with the brief that is before you.

In order to put our comments and recommendations in some context, it is appropriate to give you a brief history of both the clinic and the association's involvement in injured workers' issues in Simcoe county.

I would be tempted to say in less formal proceedings that the social and geographic location of Simcoe county is somewhere north of the Big Smoke but south of Miller country. To be a bit more technical, I will indicate that Simcoe county has a population base of approximately 225,000 and a growth rate of 6.8 per cent. That makes it somewhat larger than comparable urban-rural mixed counties such as Waterloo or

Sudbury. Simcoe county is quite large. It has a land area of 484,000 square kilometres and a population density of approximately 46.5 persons per square kilometre.

The labour base of Simcoe county is a mixture. It has an extensive agricultural labour base. That is not a particularly lucrative agricultural industry. It also has what I would describe as a traditional industrial labour base. There is not an extensive high-tech industry in Simcoe county. The types of industrial employment available to workers in Simcoe county are generally unskilled, semi-skilled and low-paying. This type of industry is susceptible to layoffs and unemployment. The county can also be characterized by its lack of social agencies which are more available in larger urban centres.

Simcoe Legal Services Clinic is part of the organization of approximately 53 clinics operating under the Ontario legal aid plan in Ontario. It is a general service clinic. By that I mean we do more than simply workers' compensation law, although I would like to point out that Simcoe Legal Services has the highest workers' compensation case load of any of the general service clinics in Ontario.

Along with clinics such as the Industrial Accident Victims Group of Ontario, Injured Workers' Consultants and other general service clinics, our clinic has been instrumental in developing methods for the improvement of the way legal clinics deal with, and the quality of service provided to, compensation clients.

The Simcoe County Injured Workers' Association was formed late in the fall of 1984. That came about after a series of meetings in the county. Those public meetings attracted approximately 500 residents of the county of Simcoe who were concerned about the issue of workers' compensation. The association, on whose behalf I am presenting this brief, is not aligned with any other injured workers' group in the province.

The association has focused on developing a program of assistance to its members dealing with the dissemination of medical-legal information, lobbying efforts to secure changes to the act and undertaking a series of programs in conjunction with the clinic to encourage outreach to those involved with workers' compensation within Simcoe county. It is a result of both the clinic's

experience with the hundreds of cases it has dealt with concerning workers' compensation and the experiences of our client association that we are able to identify certain problem areas and want to impress upon this committee specific recommendations we would like to see made.

As most of you are aware from your constituency offices, a daily complaint received from individuals coming into the office who have attempted to obtain workers' compensation benefits or have obtained benefits but are encountering some problems, is, "I can't get an answer from the board." Usually that comment is accompanied by several expletives, but that is the general thrust of the complaints you receive from individuals.

Delay is one of the most critical problems with which our clients have to deal with the WCB. We conducted a survey last week among the lawyers and workers in our clinic. It was indicated that we are currently experiencing a four- to eight-week delay in simply obtaining file materials from the WCB. That is after a decision has been made by the representative for the injured worker that the decision reached by the board needs to be reviewed or appealed.

If that delay is allowed to continue, it is going to become even more serious under the new operating procedures of the board. Under these procedures the file is to be made available immediately upon an injured worker receiving a negative decision. Once we receive the file it is taking us at least, and this would be at a minimum, two to three months to obtain a hearing date before the requisite level of appeal we would be at.

The delay becomes most serious when it involves the reduction or cancellation of benefits to a worker. Compensation benefits often represent the only funds available for an injured worker to meet ongoing commitments. Reviews, appeals, suspensions, reductions or cancellations that take lengthy periods of time are simply unconscionable and should be unacceptable. In our view, delay has been one of the most destructive elements to the reputation of the administration of the Workers' Compensation Act.

Mr. Ellis has given this committee an estimate of six months to complete the normal appeal process. We do not see that the problem of delay is going to be lessened under the new system unless changes are made to the board's operating system. It now means that valuable expertise and limited support mechanisms for injured workers are being expended simply to track down files,

find out who is making a decision and find out what additional information is required by the board. As a lawyer representing injured workers, I spend a considerable amount of my time trying to focus on how I can bypass the board's process altogether and use nonsystemic means to achieve the results required.

10:20 a.m.

We recommend to the committee the following:

1. Benefits which are proposed to be suspended, cancelled or reduced after a negative decision by one of the operating divisions be continued by the Workers' Compensation Board until the final appeal process is completed before the appeals tribunal.

2. In the event that your committee decides not to recommend that benefits be paid pending an appeal, any cancellation, suspension or reduction be given a two-month written notice.

I note that there was a comment made earlier in these proceedings by a representative of the board indicating that the board, six weeks prior to such a decision or recommendation, reviews the file. I would like to emphasize to this committee that the review, if it takes place internally, is not communicated to the injured worker. We have no notice that such a review is taking place. In the regular course, I receive, as do injured workers, correspondence from the WCB advising of retroactive decisions.

A similar provision to our second recommendation already exists under the Family Benefits Act, where the director of income maintenance responsible for the administration of the income assistance programs under the Family Benefits Act is required to give notice prior to the actual decision with regard to the suspension or cancellation of benefits. There is a precedent for the type of operative procedures we would like to see recommended by this committee.

Both the Minister of Labour (Mr. Wrye) and Dr. Elgie, the chairman of the Workers' Compensation Board, have spoken about decentralization in a variety of communities within the province. As I indicated somewhat jocularly at the beginning of my remarks, Simcoe county lies in a sort of limbo area. It is neither too populous to obtain the benefits of decentralization nor considered to be too far away. All matters affecting injured workers in our county are dealt with in Toronto and all appeals are heard in Toronto. This creates, in our view, distinct hardships. Those hardships are:

1. Lack of continuity: I have files with which I am regularly dealing in which as many as seven

different officers at the review level are involved with each file at the decision review branch. Requests to Toronto for information and clarification make it difficult for an injured worker to obtain any continuity with the board personnel.

2. Review hearings: A review of an initial decision negative to the injured worker, requiring face-to-face meetings between the member of the review branch and the worker or worker's representative, will be difficult in most situations if it is required that those meetings have to take place in Toronto.

3. Appeals: We found it extremely difficult to encourage witnesses to make the trip to Toronto for a hearing, when we were talking of distances of 80 or 90 miles.

We would make the following recommendations:

1. The board should open regional offices in Simcoe county at least in the county seat, Barrie, to be staffed either permanently or part-time for the purposes of providing file information to injured workers.

2. The review hearing officers, on request of the worker, should hold those hearings in a location most convenient to the injured worker. I note that the Social Assistance Review Board, which is charged as the appeal panel from income maintenance programs such as general welfare assistance and family benefits allowance, holds its hearings in the community in which the recipient has appealed and will even hold them in the recipient's home where requested.

3. In the event that the committee is not prepared to recommend decentralization for Simcoe county, both the review branch and the appeals tribunal should be directed to give preference for scheduling of review hearings or appeals to those areas that have not received the benefit of decentralization by the board.

As I have indicated, the minimum two- to three-month delay period in getting a hearing date does not allow representatives of injured workers to check calendars with the board or establish convenient hearing dates. One is simply told by the WCB when that hearing is going to take place. There does not seem to be any internal direction that accommodation should be made for workers who are travelling a considerable distance.

4. In the areas not benefited by decentralization, consideration should be given to the granting of a travel allowance, not only to the injured worker for attending appeals and hearings, but also to the worker's representatives. We find, primarily with respect to our representation

of injured workers on appeal, the board is not giving funding for the purposes of travelling to Toronto to the worker's representative. This means, as a community law clinic, we have to rely on the worker to pay disbursements costs for his representative to come to Toronto. That creates a hardship.

It has been indicated that under the financing scheme for worker advisers, money will be available to support representations by other agencies such as legal clinics. We ask that a specific recommendation be made that such money should be earmarked specifically for transportation costs of injured workers' representatives.

5. The Workers' Compensation Board should ensure that those communities not benefiting from decentralization should be given exposure to the board's administrators by regular appearances within those communities. It is envisaged, for instance, that the board or senior administrators of the board should hold public meetings within communities such as Simcoe county to ensure that area concerns are not missed or ignored in the ongoing activities of the board.

6. We further recommend that the standing committee on resources development, which holds its hearings on the delivery of the annual report of the WCB, should itself decentralize. There is no reason why these hearings could not go out into other areas of the province from year to year, thus giving greater exposure of the board and the committee to the public they serve.

Dr. Elgie, in his address to your committee, indicated that the board's computer system and technology will go a long way in improving the efficiency of service to the working men and women of the province. He indicated that this would come about as a result of speedier and improved access to claims information. It has been the experience both of my clinic and the association we represent that the majority of decisions rendered in compensation claims are general in the extreme, and they do not relate to the specific facts upon which the decision is made.

Those of you who are experienced in dealing with compensation claims in your constituency offices know that after you have dealt with any number of injured workers, you can predict the timing and the wording of the next communication you will receive from the WCB. It is frequently the case that the reasons for a particular decision communicated in writing to a worker are not known until the file is obtained and the internal memoranda upon which the

communication is based can be reviewed. In my opinion and the opinion of the association I represent, that does not provide improved and speedier access to claims information.

There is no doubt the board must rely on word processors and computer-related technology. That does not mean the board has to fall into situations where form letters are being employed when discussing why benefits have not been awarded, or have been curtailed, suspended, or improved and expanded upon. The board must relate such decisions to specific facts and communicate those facts.

In our experience, that is another factor in creating negative impressions of the WCB. The decisions it renders are simply not clear. A familiar example to all of you is where one of the clients will come into your office with a letter from the board that says, "Your benefits are being reduced because, in the view of the board, you are not totally disabled." This is a common occurrence.

10:30 a.m.

There is no reason why such a general statement could not be replaced by wording such as, "You have advised your vocational counselor that on Thursday, September 14, you did not feel you would be able to work as a result of the condition of your back." If it is a specific statement like that, as it often is, which triggers the reduction of benefits, surely that is an incident which should be reported immediately to the worker. It would then be an easy matter for the worker or his representative to say in reply: "That was an offhand comment. That was how I felt on that particular day but it is not descriptive of how I feel on most days."

I am not going to belabour the point. I think I have made myself clear. Improved access to claims information requires improved access to real information. We therefore request that this committee recommend that any decision of the board reported to an injured worker contain the factual material upon which the decision is made with as much precision as possible.

Another major difficulty we have encountered is the rating of pensions and that is particularly with respect to permanent disabilities arising from soft-tissue injuries. Those are most often back injuries. The meat chart must be replaced as soon as possible with a rating system which describes functional loss in detail.

The current method is to have a pension adjudicator apply a percentage rating to some objective physical finding, such as the ability of

an injured worker to touch his toes or do a straight-leg flexion.

In the opinion of the association I represent, that is capricious, arbitrary and mostly meaningless. There is no doubt that unless the injury is dealt with in terms of functional loss, it is very difficult to attack a pension assessment on appeal. Currently there is no method of relating those objective physical tests to any level of disability.

We would therefore request that this committee make a recommendation that at the earliest possible moment a new rating schedule stressing functional loss be utilized. We further recommend that as functional loss is the desired method of rating, any cap upon soft-tissue injuries, which are primarily back injuries, be immediately discontinued. Currently those injuries are being capped at 30 per cent as the maximum entitlement on a permanent disability that an injured worker can receive.

The board is at present engaged in a number of TV and radio commercials with respect to encouraging employers to hire or rehire an injured worker. There is currently no statutory provision for job security within the workers' compensation legislation. The only legislation available is that of the Ontario Human Rights Act dealing with discrimination as a result of disability.

The Minister of Labour spoke of a moral obligation for an employer to rehire an injured worker. I would like to stress that the Ontario Human Rights Commission in the very recent Ontario liquor board case has already indicated that there is a statutory obligation for the rehirement of injured workers.

It has been our experience, however, that the board has not been that concerned with job security on behalf of the injured workers. They frequently take a hands-off attitude.

We would ask that this committee make a strong recommendation to the board that it be charged with co-operating in the fullest and to actively promote the provisions of the Ontario Human Rights Act to ensure job security for injured workers. The board should immediately make available to an injured worker and his representative, job evaluations, expertise and other ratings.

The Simcoe County Injured Workers' Association expects that this standing committee will make strong recommendations to the Workers' Compensation Board to ensure that the momentum of change accelerates to meet the legitimate requirements of all injured workers in Ontario.

We ask that the recommendations we have given today be studied by your committee and included in your report.

We look forward to appearing before this committee in the future, it is hoped not to restate the recommendations which we have made today but to comment on them and the success of their implementation.

I would like to take this opportunity to thank the committee for giving us an opportunity to appear before it, although as I have indicated, we hope next time it will be closer to home.

The Vice-Chairman: Thank you, Mr. Salisbury.

Mr. Gordon: I would just like to commend both of you on the brief. I thought it was excellent, and you have touched on many of the problems that we have heard in past days, so we will keep your recommendations in mind.

Mr. Martel: What percentage of the clinic's work is devoted to compensation cases?

Mr. Salisbury: I am not sure I can express it in percentage terms. I can give an indication of the case load of the clinic. At the current time we have approximately 150 active workmen's compensation files. By "active workmen's compensation files," I mean a file in which there is going to be active representation before the board. There is going to be work done of a representational nature.

On top of that, of course, we have the day-to-day information-giving process involving literally hundreds more cases, which would not require the actual opening of a file.

If I was asked to give a rough ball-park figure, I would say the 20 to 30 per cent range is what our workers' compensation files are now running within the clinic. For the information of the committee, Simcoe Legal Services has three lawyers and one clinical legal worker delivering services to Simcoe county.

Mr. Martel: Are there other groups in your community that are involved in similar activities outside of the local members of the Legislature, unions, other activist groups?

Mr. Salisbury: Some of the unions, of course, in the community—the Steelworkers up in the Collingwood area, in particular, have committees within the union who are representing the injured workers. Perhaps Lila could explain to the committee other groups in the county.

Ms. Fenton: Up until June 28, the government was funding an association called the Simcoe County Unemployed Help Centre, and the project manager there, Bob Lawrence,

handled workers' compensation matters and appeals almost exclusively. As of June 28, the funding was pulled out. He has been working since then on a voluntary part-time basis, out of the union office in Barrie.

Mr. Martel: What would happen, in your opinion, to this whole system if all of us who are involved just said: "To hell with it. We are going to turn every last single question and every last single hearing over to the new worker advisers?" What would happen to the system if all of us pulled out?

Mr. Salisbury: I dread to even think what would happen. My understanding is that with the manpower of that office and the considerable delay that we are already facing with all these other agencies involved, there simply would not be any representation as we currently know it being provided for injured workers.

I cannot envisage how the worker-adviser system will in any sense of the word be able to adequately represent the interests of the injured workers in Ontario. They do not have the funding, the manpower or, I would think, the expertise that has already been developed in the province among community clinics, among unions and among other organization at present representing injured workers.

That is why, as we indicated in our brief, one of the recommendations we asked this committee to make was that funds be made available to those associations and organizations representing injured workers, to ensure that they continue to have the ability to represent injured workers.

10:40 a.m.

Mr. Martel: Last week, before I abruptly cut them off, we got the same frustrating responses we always receive—that 95 per cent of cases are handled well and that the other five per cent are not bad. Quite frankly, I disagree with the figures.

I have no way of proving that more than five per cent are having difficulty. I simply do not believe it because there are far too many of us right across this province saying exactly the same thing. It does not matter whether it is an MPP from southern Ontario, from northern Ontario or from eastern Ontario, or whether it is a community clinic or a trade union: everyone has exactly the same problems, and you can put them in four or five categories.

If we could ever get the WCB to admit there were problems in those areas, we might get away from it, but in all my years here, they have yet to admit there is a serious problem. They take statistics and say, "Is it not wonderful? We

handle 95 per cent well," which is a figure they give us and I am supposed to believe, "and the other five per cent is not too bad when you consider how many cases we are handling." The whole thing is a crock and so are their statistics.

Mr. Salisbury: Well, I must admit when you are hunkered down in the trenches trying to deal with these problems, it is difficult to rise up and get a good perspective. I could not make a comment on the percentages but I share your sense that 95 per cent properly or successfully handled cannot be accurate with the problems we have encountered.

I would like this committee to bear in mind that our brief today has been dealing simply with administrative problems. We are not talking about legislative changes which we have encouraged and concerns we have with the legislation as it exists. We are talking about basic internal aspects of how the board conducts itself which should be changed.

Mr. Callahan: You have suggested two alternatives: That the injured worker be left on pension until the appeal is finally dealt with or for a two-month period. Let us say the appeal body turned down the appeal and found the claim was not warranted. How would you propose the moneys paid out during that period would be recouped?

Mr. Salisbury: I do not propose that a recouping mechanism would be necessary in that situation. My experience with the Family Benefits Act is that there can be a reinstatement or a continuation of welfare benefits pending the outcome of a Social Assistance Review Board appeal hearing. If the claimant is unsuccessful before the Social Assistance Review Board, there is no attempt at that point to recoup the support payments made up until that time.

Mr. Callahan: So the moneys are out there and they are lost if the claim is—I am thinking more specifically, not in the case of one group. Perhaps it is a difference of medical opinions. I am saying it may be a bogus claim.

My concern with this whole system, just as with the unemployment insurance commission and any other social benefit, is—and I am not making this suggestion—if you allow people to milk the system, and I know that is very rare in a workers' compensation situation, the public perception is, "Why should we continue to have these programs?"

I worry about the maintenance of them from a political standpoint. Is there not a mechanism that can ensure that moneys paid out on a bogus claim can be recouped? Am I making myself

clear? That endangers the whole concept. You hear this with UIC constantly. People are screaming they want the plan scrapped. That is great, but what you are doing is throwing out the legitimate aims of society to look after those people who need looking after because of a few people who milk the system. I find, from my brief experience, that there are very few of those in the WCB situation.

Mr. Salisbury: I would suggest that if that presents itself as a problem, and there would be relatively few cases where it did, it is a small price to pay to have a system that allows a worker some dignity and the ability to pursue a claim before the Workers' Compensation Board.

As it stands at present, in a decision without any formal notice prior to the decision being communicated, an injured worker gets cut off. He then has to scramble around to find out the reason for being cut off and go through this process which literally can take a year and a half to two years before he is at a point where a matter can get resolved. During that time, he may not be eligible for any other form of social benefit.

Mr. Callahan: What would be your comment on this? It was suggested that we use an interest penalty such as they do under the Judicature Act in negligence claims—prejudgement interest.

Let us say we went with the two months. We allow the person to collect for two months and from that point on until the appeal was resolved, there was some way of assuring that money to the claimant if he was successful plus a claim for interest. That instrument, by whatever way that was guaranteed to the worker, would be one he could use to obtain funds from a normal lending source.

In other words, if it turned out to be bogus, he or she would be saddled with the cost of the financial claim, but if he or she were successful, the moneys would be paid back to that lending institution.

Mr. Salisbury: I know that our association supports any form of a penalty provision such as the one being suggested. Even if one were imposed, to a large extent it would not recoup the losses. If the individual is not working and is not in receipt of any other benefits, where are the funds going to come from to even repay the program?

Mr. Callahan: What I am talking about is if the person were successful, the funds would be paid over to that person jointly with the person they had borrowed from. In any event, there was some discussion about a penalty, not on the injured worker, but on the WCB. If they carried a

claim forward that proved to be wrong, they would have to pay, just as an insurance company has to pay.

Second, the majority of this is done through the Ontario legal aid plan. You talked about travelling expenses for the representative of the injured worker to come down to Toronto. Is that not paid for by legal aid?

Mr. Salisbury: No. I can explain how our clinic operates. The funding of our community law clinic is on a global-type basis. You have a year's worth of funding in which travel expenses are paid to a limited extent. They do not cover any extensive disbursements for our travelling back and forth between Barrie, Orillia or Collingwood to Toronto. That is not in our budget.

Mr. Callahan: Even under section 33, the discretionary \$30 an hour travelling fee and then the mileage fee over and above that? That is in the legal aid tariff.

Mr. Salisbury: Right. But a legal aid clinic does not have legal aid certificates in the same sense that a private lawyer could claim for those types of benefits. We have our funding for the year which has a minimal amount provided, if we can convince clinical funding to provide the clinic with travelling expenses, and that is what we have for the year.

Mr. Callahan: You are saying then that if the person comes to the clinic and the people at the clinic have to travel to Toronto or Barrie or wherever, they collect the money from the person in hand? Where does that money go? Does that money go back into the legal aid fund?

Mr. Salisbury: Yes, it goes back into the funds for the clinic.

Mr. Callahan: That seems like an awful lot of unnecessary bookkeeping entries, I would say. It is coming out of one ministry and going into the other.

Mr. Salisbury: Nobody would disagree with me on that. Perhaps I can expand on that, touching on the nature of the clinics at the moment. We regularly are required to recoup from the clients we represent, disbursement costs in any type of legal proceeding, for example, the expenses of driving down to Toronto. If there are filing fees or Xeroxing costs, those normal types of disbursements one would experience in a law practice, clinics would have to recoup those disbursement costs from the client. There is not adequate funding available from clinical funding to provide for those expenses.

Mr. Callahan: It would seem to me that statement might be made to the Attorney General's ministry which is considering the question of legal aid and whether it should be included. I would think it should be.

10:50 a.m.

Mr. Salisbury: However, if we are dealing with the problem of injured workers and how they get adequate representation before the board, surely with the funds that are going to be made available for workers' advisers and other groups representing injured workers, some of those funds should be slated to offset their expenses.

Mr. Callahan: How much assistance do you get from your local member? He can usually get a file through his office a lot faster than anybody else.

Mr. Salisbury: I have not used a local MPP's office. There are several in Simcoe county, Mr. Rowe being one. Through our clinic we made arrangements with the Workers' Compensation Board to have a special contact person with the board, the theory being it was supposed to be the same type of contact I understand the constituency offices have. The file would be pulled by that individual and commented on within 24 or 48 hours; I forget what the promise was. In any event, that promise has not been fulfilled. We have not had a turnaround in terms of being able to contact the contact person, who is a special adviser, with his getting back to us within the next day or two days to answer a question.

I can give you an example I am dealing with this week. It is a matter that went to the chairman of the Workers' Compensation Board. He has written to me about it and we have had conversations. The matter was to be set down for appeal. The individual had spoken to his MPP. In fact, he had canvassed virtually everyone to get the file moving. We asked for an appeal at the beginning of July. As of yesterday, the board cannot locate the file on what it calls its appeal floor. We still do not have a date to deal with that.

At times I am almost of the opinion that if I get too many people who have this ability to get things done quickly involved with a file, it seems to confuse everyone at the board and the file goes missing. It is just not there and you cannot get a handle on what is happening.

Mr. Callahan: If the file is missing, there should be no appeal and the pension should be continued if there is no documentation to support it one way or the other.

In any event, when I was driving home the other night, I noticed advertisements on radio that employers can contact a certain person and receive contributions towards full or partial reimbursement for injured workers' hourly wages if they take them back. Weighing that against the other alternative put to this committee on an earlier occasion, the one about a bone being thrown to employers whereby they would get a reduced rating if they were prepared to take back injured workers, which of the two would you prefer from your experience in Simcoe county?

Mr. Salisbury: I do not think I would prefer either. There should be a positive obligation on employers to re-engage injured workers. In representing injured workers, we take the position that unless an employer falls outside the ambit of the application of the reasonableness test under the Ontario Human Rights Code, there should be no excuse for not taking back an injured worker.

Mr. Callahan: Is that realistic? You are suggesting the legislation should say, "Thou shalt do this." I think that would be resisted, and somewhat legitimately so, not from a moral but from an economic standpoint. An employer would not want to take back an injured worker whose capacity had been reduced by 50, 60 or 70 per cent.

Mr. Salisbury: At the very least the onus should be switched so it is not on the employee to plead his case as to why he should legitimately be rehired. The onus should be placed on the employer to justify why he is incapable of taking the injured employee back on the job.

Mr. Callahan: Are you saying you would not support either of those alternative methods of trying to convince employers to take back injured workers?

Mr. Salisbury: Our position is that we would want a much more stringent requirement, a positive obligation on employers to re-engage injured workers and enforcement of that obligation.

Mr. Rowe: Ms. Fenton, before the clinic closed in June, can you recall to the best of your ability how many Workers' Compensation Board cases were being worked on at the time? How many might they have handled in that—

Ms. Fenton: They handled hundreds of cases in the two years. Some were referred to Simcoe Legal Services and some were handled up to and including the stage of appeal by Bob Lawrence who would accompany the worker to Toronto for the appeal.

Mr. Rowe: Could we say 200 or more?

Ms. Fenton: At least. We are still working on cases. We have 48 active cases at present, but there is no funding, no money. This is on a voluntary, part-time basis and we are handling at least 40 cases.

Mr. Rowe: That is interesting. Since taking office at the beginning of June, we have handled 224 action sheets at my office; 115 have been WCB cases. That is an interesting statistic when you look at the fact the county is not considered densely populated with skilled labour such as one would find in Mr. Martel's riding in Sudbury, working in the mines where the main employer might be one or two large corporations. It is interesting to take that province-wide and see the problem we have with WCB when you look at that number of cases.

My assistant tells me I have a chap who has been working on a claim with WCB for nine years. I probably have one of the oldest, next to Mr. Martel who mentioned last week that he had a 10-year one on the go.

Mr. Martel: I won one that was 40 years old.

Mr. Rowe: I cannot claim any victory and I have one that is only nine years.

Mr. Martel: It took three and half years of my travelling the province to find witnesses. The compensation board did not give me the material. It said it did not have it. The first piece of evidence put forward by Canadian National Railways was exactly the sheets with the names of the workers I had wanted so I could track them down. The CNR could present them but the WCB did not. The company forgot to report the accident. The young man lost his hand at 13 and we finally established benefits when he was 53.

Mr. Rowe: No doubt it would be retroactive.

Mr. Martel: It was retroactive. It was a tidy sum. He was making 25 cents an hour in those days.

Mr. Callahan: To follow up on Mr. Rowe's question, I am wondering whether there is some systemic problem. What is the nature of the injuries in the claims just referred to?

Mr. Salisbury: We seem to have a high number of back-related injuries, soft-tissue injuries; that seems to be the major type of medical problem we have to deal with. With respect to the types of cases we deal with, the majority deal with situations where individuals have been cut off from section 45 supplements or from some other form of supplement because of an expressed opinion by the board that they are capable of returning to gainful employment. That

usually has to do with non-cooperation with a vocational rehabilitation counsellor or a dismally low pension assessment has been provided for an individual.

Mr. Callahan: How many orthopaedic surgeons are there in Simcoe county?

Mr. Salisbury: There are two.

Mr. Rowe: We had one and a second finally came on stream. I think you wait anywhere up to three months to get an appointment.

Mr. Callahan: Those guys must be making a fortune in overwork. In Simcoe county, you have indicated industry—I gather there is a large farming community. Are they covered under workers' compensation?

Mr. Salisbury: Some farm labourers will be covered under workers' compensation.

11 a.m.

Mr. Callahan: If you have that large a number of back injuries and they just go on and on, something must be wrong with the employers or with our position of educating people on how to lift. You say they are skilled and semi-skilled. Perhaps a little more emphasis could be placed on how to lift.

Mr. Salisbury: You will get no argument from me or from the association I represent that we have a long way to go in ensuring that the industrial work place is safe for individuals. I would say that applies province-wide. I did not address my comments to that issue today, but I indicated that given the fact we have large numbers of injuries we have to ensure that the compensation scheme, as it is currently being administered, adequately meets the legitimate needs of injured workers.

Mr. Callahan: Is it a matter of safety in the work place or of educating people as to how to lift? I could see it if an arm were cut off by a machine that was improperly guarded or if hair were caught in it, but when there are so many back injuries, it seems to be endemic. Perhaps they do not know how to lift properly.

Mr. Martel: We are related to the monkey and our backs have been made to sustain what we have decided the back should do these days.

Mr. Chairman: You mean walking upright.

Mr. Martel: Yes.

Mr. Chairman: Perhaps we can move on because we are going to be pressed for time.

Mr. Henderson: It happens that I know the orthopaedists there. That is not relevant except that I know one of them would cross oceans before he would willingly become involved in a

Workers' Compensation Board case. That is not too atypical of surgeons, particularly in a city where there may be only one or two in a specialty and they are already very busy. Getting them to do WCB work at times is like pulling teeth. That must be a fairly frequent dilemma in many centres.

I come back to something we talked about yesterday, the whole question of whether physicians are the people to be making relatively sole assessments or whether an assessment-team concept ought to be brought to bear, so that everything would not hang on the opinion of the physician, particularly in the case of back injuries where there are few objective findings to go by.

He may not want to involve himself in rendering an opinion at all and might be the first to say, "I would be delighted to have a few people share the responsibility." What do you think of that concept? Who were the people we were talking about yesterday for an assessment team of some sort? There could be kinesiologists, physiotherapists, occupational therapists. It might cost a lot less than getting the orthopaedists to do it.

Mr. Salisbury: In our experience, the doctors we deal with in Simcoe county—bearing in mind there are only two orthopaedists with that sort of training—by the nature of their training do not have the ability or inclination to do the type of functional analysis we would want the board to look at with regard to awarding permanent disability.

Mr. Henderson: Does it not have to be done on the job? It cannot be done in some doctor's office.

Mr. Martel: They do it. They do it in two minutes.

Mr. Henderson: That is not a legitimate assessment.

Mr. Salisbury: That is what I was saying. With respect to the flexion test and touching one's toes, it does not appear to be an adequate type of analysis to take an individual who works as a labourer in shipbuilding, do an assessment of his ability to touch his toes and say, "Fine; you can go back into the shipyards and start working again because you can bend over." I do not mean to denigrate the doctors because I am sure their work loads are quite heavy.

There is another problem. Getting back to the issue of disbursements, the problem we have with doctors is that as a representative of an injured worker I would like to be able to get hold of a doctor and say: "This is the problem we are

dealing with. Can you give me some information? You have seen this individual." I am regularly faced with the problem of doctors charging hundreds of dollars for those reports.

Mr. Callahan: They cannot under the act. Does the act not require them to give the reports free?

Mr. Barlow: I think you pay for it.

Mr. Callahan: I thought there was a section under the act that required them to give it free.

Mr. Chairman: I have received bills from doctors.

Mr. Callahan: Perhaps someone can tell us, is it not the case that there is a section of the act that says doctors will give the reports free?

Mr. Henderson: It is a tariff, a Workers' Compensation Board tariff. I do not know how the mechanism works.

Mr. Salisbury: That has to do with responses at the request of the Workers' Compensation Board. As a representative of an injured worker, if someone comes to me with a problem I look into it and see what kind of medical information can be obtained. If I go to a doctor and say I am representing so and so who has been denied benefits for this problem and ask him to express a medical opinion based on whatever the medical review branch of workers' compensation has indicated—if I can get hold of the file on time—I will regularly receive a response from the doctor to the effect that we need money for it.

Those disbursements simply are not available for most representatives of injured workers. Injured workers cannot afford to pay for that type of medical information. The clinical legal system is not funded to pay for that kind of medical information and you certainly cannot get the board to assist you in getting that because the board's position is: "We have already reviewed the man's medicals. We were correct in what we did. Why do you need to go and consult with another doctor or get any more medical information?"

Mr. Martel: They do not do that. We heard last week that it is so easy to change doctors.

Mr. Ramsay: I am glad Mr. Salisbury brought up the Ron White case that appeared in the *Globe* and *Mail* this summer. I have handouts that the clerk can distribute to committee members that were prepared by the Advocacy Resource Centre for the Handicapped. There are copies of the two clippings from the two Toronto newspapers that carried the story.

I think it is a very good point that we should incorporate in our report, referring to the Human

Rights Code. Section 16 says employers would be required to afford reasonable accommodation to handicapped applicants and employees and that the abilities of handicapped applicants and employees to perform any job are to be assessed on an individual basis.

I think this is very important. I think it is a landmark decision because it is partly what we have been talking about this week in getting people back to work. As a committee, that is what we should be looking at—rehabilitation and then getting the person back into a constructive life. I am glad you brought that up. It is something I wanted to pursue this morning; it is some of the positive action that we should be taking.

Mr. Chairman: Am I correct in saying that this was settled before the Ontario Human Rights Commission made a ruling? Did they not agree to settle before that happened? Do you know that, Doug?

Mr. Ramsay: If you refer to the *Globe* and *Mail* clipping, on the back of the piece it says it is a decision rendered by the Ontario Human Rights Commission tribunal.

Mr. Salisbury: It was my understanding, Mr. Chairman, it was a decision by a Professor Zemans.

Mr. Chairman: We had a senior member of the board's management here last week, and we were told that it was settled before a decision had been made. We can check that out in Hansard.

Mr. Callahan: That is what it says on the back of the clipping.

Mr. Ramsay: The third paragraph, yes, says that an 11th-hour agreement was reached.

Mr. Callahan: I might add as well, that was probably a very easy case because that was the Liquor Control Board of Ontario over which there is a bit of governmental control. In the private sector you probably would not see that type of settlement take place, without that control.

I am not sure it really is a precedent because if it was never really found to be an infringement by the board itself and was simply done on the basis of a settlement, it does not prove anything; it just proves they were afraid to go to court.

Mr. Chairman: I think we had best move on. I would like to thank you, Mr. Salisbury and Ms. Fenton, for appearing before the committee. You have been helpful.

11:10 a.m.

Mr. Martel: I would like to ask one brief question, with respect. Mr. Callahan asked

which of the two systems we wanted. He then went on to say a worker might be incapacitated 50 per cent, 60 per cent or 70 per cent. I suppose most of us would accept that, provided the compensation board is prepared to pay the 60 per cent or 70 per cent it recognizes as the amount they are incapacitated from their work. However, that does not happen. How many pensions of more than 20 per cent have you seen? They are as scarce as chickens' teeth.

That is what worries me. There is no relationship between the amount of incapacity to work and the amount of pension they receive. That is what everyone is saying about the meat chart. The relationship does not exist in my experience; I suspect yours is the same.

Mr. Salisbury: It is exactly the same. That is what I am talking about when I say that the analysis has to be based on functional loss—in terms of the real analysis—rather than the meat-chart system of a deemed percentage; which is, in effect, three quarters of what the person was making. It goes on, ad nauseam, regarding the reduction of what the injured worker actually receives.

Again, as I indicated at the outset, these were specific recommendations that we were making with respect to administrative matters. We could go on for several hours, perhaps days, talking about problems I could raise with respect to the current act and how it attempts to deal with the compensation of injured workers in Ontario.

Mr. Chairman: Thank you very much for helping us out.

Mr. Salisbury: Thank you, Mr. Chairman.

Mr. Chairman: The committee now has 25 pages of recommendations. However, before we get into that, Doug Cain has some information. There were questions put to the board over the last few days. He has some information to hand out to us that we can go through. I do not think it will take long. It would probably help clarify a couple of issues. We will then move right into the recommendations.

Mr. Cain: I am giving out statistics that have been asked for over the last few days. We were asked to provide statistical information based on questions outlined in the brief from the Hamilton and District Labour Council, where those statistics were available. They are in this package I am giving you. There is just one statistic that is not in the package that is available, and I will quote it quickly and go on from there.

On page 3 of the presentation they said: "Of the 3,714 injured workers across Ontario who

were successfully rehabilitated enabling them to be fit for work'...we would like to know how many of these people were able to return to their former position. How many are still gainfully employed at present?"

I will simply quote the numbers. Of the 3,714 people, 2,162 went to new employers, 1,293 went to the accident employer and 259 were self-employed. They were still employed at the end of four weeks—which was the follow-up time. The vocational rehabilitation division cannot tell me if they are still employed. That was the only other statistic I wanted to give you there.

Mr. Barlow: How many are self-employed?

Mr. Cain: There are 259 self-employed.

Mr. Martel: What page is that figure on?

Mr. Cain: It is on page 3 of the Hamilton and District Labour Council presentation to the committee. I am sorry, it is on page 2. It is part of the fourth paragraph.

Some statistical information is also included in the package on the special rehabilitation assistance program. I wish to make one other clarification regarding the material you are provided with, to ensure it is clear to you. There is a paper within that package entitled New Permanent Disability Pension Awards 1984. The statistics provided there give a breakdown of the number of pensions awarded during 1984 in increments of 10 per cent: 10 to 20 per cent, 20 to 30 per cent, etc.

There is one column entitled "Special Supplements." These are the supplements provided during 1984. It could be confusing because, for example, if you look at the permanent-disability percentage, 80 to 90 per cent, you will see there were nine life awards and five provisional awards in 1984, but it appears there were 3,737 special supplements given that year.

There were, but that was the number of supplements awarded that equalled 80 to 90 per cent of the person's compensation rate. In actual fact, that number of supplements was probably given to people receiving 10 to 20 per cent or maybe 20 to 30 per cent pensions. I wanted to clarify that.

Mr. Chairman: That would be 70 to 80 per cent.

Mr. Cain: Yes, that is right. Also, it would probably be up at the 20 to 30 per cent or 30 to 40 per cent clinical pension.

Mr. Chairman: The numbers on the right-hand side are somewhat misleading because a supplement is not a pension.

Mr. Cain: That is true. The only reason supplements are included in this particular chart—we use it internally—is because supplements come out of our pension award. That is all.

Mr. Chairman: But to be fair and to make this a more accurate chart, the special supplements should be subtracted. I know you cannot average percentages. That is when you get into trouble with mathematics. However, if you take all the life pensions—13,000—and you subtract the 8,900, you end up with—I am sorry, you leave it at 13,000; you do not add in the eight. You do not end up with 23,000 total awards; you end up with 13,000 total awards.

Mr. Cain: Exactly. I know it is added up on the right-hand side but each column should be taken on its own. There are some relationships but you have to identify them very carefully.

Mr. Chairman: I do not have a calculator here.

Mr. Martel: If 11,000 of them get 20 per cent, it says something about how we deal with those people who are out there trying to make a living, 20 per cent at most, and how we fit them into the work place. Those will be the long-term cases that are going to show up again and again, I suspect.

Mr. Chairman: As a matter of fact, Mr. Martel, if you add those two together, it is 11,000 out of 13,000 who got less than 20 per cent.

Mr. Martel: Yes, and if you go one higher, you have 12,500 if you add in the next column. That will make up the vast majority of the group we saw last Monday. They are in that range, probably the first two. That is where the difficulty arises for many of us.

Mr. Chairman: Is there anything else about this information that needs explanation, Doug?

Mr. Cain: The only thing I could add is on the chart that immediately follows the one we are discussing. You will find a different number there on the total number of pensions for 1984. The reason for that is that it is developed for a different purpose. In fact, they wait three months. One of the criteria, I should say, is that they wait for three months after a pension is awarded before they consider it an established pension and begin counting their numbers.

The purpose of that chart was to provide you with a breakdown as best we could of pensions awarded on the basis of nature of injury. That was the only purpose for it. I believe there is nothing else on those particular charts to clarify.

11:20 a.m.

There was one other matter. Mr. Ramsay asked why the board did not pursue third-party action against Johns-Manville. I spoke to our legal department and I will give you its explanation. The reason we did not consider suing in Ontario was because of subsection 8(9) and sections 14 and 122 of the Workers' Compensation Act. Section 14 indicates "in lieu of all rights and rights of action." That is the reason we did not endeavour to sue in Ontario.

The first point is that as far as pursuing an action in the United States is concerned, I am told we would have to establish that Ontario workers were supplied by the American company with asbestos, that the American company supplied it knowing it could cause disability and that the asbestos caused the disablement of the workers in this province.

The second point is that the company in the United States went into receivership as a result of more than 15,000 pending suits. There is a very serious question whether anyone who pursued a suit after it went into receivership would have the opportunity to receive anything, even if he were successful. Therefore, on the basis of these things, our legal department considered the cost of investigation and the cost of pursuing the action would probably exceed anything we might receive. They questioned very seriously whether we would be successful in the first place. That is the information I can give you.

Mr. Martel: I would like to pursue that because the real issue is not whether you nail Johns-Manville to the wall and get zero; it becomes a signal to other employers who might want to act in the same way.

There now is successful prosecution in the United States of two people who were forcing workers to work with—what was it? I think it was just this past August. They have been indicted and convicted. Surely, the board would pursue it on those grounds alone to serve as a signal that we are tired of counting bodies and heads, and anybody who acts in an irresponsible fashion, such as any of us driving our car down the street and ploughing into somebody and killing him, will not have that action condoned.

I happen to believe employers will do or follow whatever guidelines the government wants. If government wants to send a signal that it is not going to countenance this sort of conduct any longer, there is no better signal than to hit four or five really hard. Then everybody else will fall in line. We do it with criminal acts and we do it with people driving cars. We do not let somebody off the hook who shoots his wife

because he is poor and then everybody else can get away with it. We take him to court. We will not get a god-damned thing out of it, but we will take him to court to make sure other people do not act in such a fashion—except us. By “us,” I mean the board.

Until we put out the signal that we are not going to countenance that sort of action, companies are going to continue to ignore occupational health and safety. All you have to do is look at the average cost of a conviction last year in occupational health. It is a licence to continue to play havoc with peoples' lives when it is less than \$1,000 per fine. Until we wake up and say we will not tolerate it any longer, companies will not adhere. Once they realize we mean business, they will get on with the business of cleaning up.

Mr. Chairman: Also, it does not have to be a financial penalty.

Mr. Martel: No.

Mr. Chairman: Other penalties can be assessed against the directors of a company and so forth. It could be influential.

Mr. Henderson: Such as what?

Mr. Chairman: There have been cases in the United States of jail terms for directors, for example. I cannot remember the name of the company but not long ago there was—

Mr. Martel: There were two; some camera company.

Mr. Cain: Following up on Mr. Martel's point, I do not think you send any message to the employers if you do not succeed. I would have to say with respect to the first part of that advice that you would have difficulty establishing in a civil action that they knew at the time asbestos would cause asbestosis. We know it now. Clearly, if a company did it now we probably would not sue civilly. We would have the Attorney General (Mr. Scott) lay a criminal information charge against it for criminal negligence causing deaths or injuries. To spend what would be a significant amount of money if you had to hire a United States attorney—

Mr. Chairman: Any attorney.

Mr. Callahan: US attorneys make a hell of a lot more; believe me. They usually do it on a percentage basis. If I were a taxpayer, I would think the signal you were sending was nebulous, because if you lost you would be sending an even worse signal. As a taxpayer, I would be screaming at the cost of it.

Mr. Martel: At the time we became involved in the Elliot Lake situation, the body of

experience proved we had known since 1919 that uranium was going to kill people if worked on in places with inadequate ventilation. We knew immediately after the Second World War at the United States Senate inquiries into uranium. The number of people who were dying from it was tabled then. If one looks at the Labour ministry's own reports for 1962 or 1963, reports in Ontario warned of the hazards for workers of working with uranium in areas not properly ventilated. We had an epidemic by 1975.

It is not as though we do not know. The specialists in the field tell me that for many of these industrial diseases, we have known for at least 40 years that these diseases were going to kill people. People working with certain substances in certain spaces will be killed.

Mr. Chairman: Does that include asbestos?

Mr. Martel: That includes asbestos. We have not moved against any of them. I have heard these arguments. I heard the arguments when we were involved with Elliot Lake. My friend and Stephen Lewis and I, the three of us, spent months at Elliot Lake. We heard that argument. We heard all that nonsense that you could not do it.

However, when we turned some researchers loose we found out it was known in Poland in 1919 that uranium was going to kill. It was known in Colorado as early as 1945. We were warned about imminent danger by the labour and mines ministries' reports in 1963. We decided to have the Ham royal commission when people started to die. That led to occupational health and safety.

There are always reasons why we cannot do these things. I heard the new minister say that he could not take a company to court in Windsor last week. I believe you should take your chances, and go out and hire the best god-damned lawyer in the business when you have 29 orders issued against you for the same violation.

If the Ministry of Labour were prepared to hire John Sopinka and John J. Robinette when I had to eat a little crow around here about three years ago, we might consider hiring John Sopinka and John J. Robinette.

Mr. Callahan: He is busy at the moment.

Mr. Martel: I know. They were not too busy to hire them and pay their fees to determine whether they were going to sue me. They might consider hiring them to take on some of these cases. The best lawyers are not sent to do the business in half the cases that we as a province take to court on behalf of the people of Ontario.

Mr. Callahan: They have never had me. I would like to respond to that. I appreciate what you are saying. However, you are now jumping from the Johns-Manville situation to the Elliot Lake situation. There was clearly evidence in regard to Elliot Lake so that they could have, and probably should have prosecuted them criminally in the light of the blatant continuation of workers' exposure to that commodity and the knowledge they had. However, if you start actions and you do not have the ammunition to win them, you will get some lawyer to take them. He will take them if you pay his fees.

Mr. Martel: All that information was buried in the Macdonald Block. Linda Jolley did the research for us and brought it all together, if you would like to contact her. Everybody knew it.

Mr. Callahan: Regarding which case?

Mr. Martel: Elliot Lake; everyone knew.

Mr. Callahan: You are talking about apples and oranges.

Mr. Martel: No, I am not.

Mr. Callahan: All I am suggesting is that Johns-Manville would be a waste of money. Also, a negative vibe would be sent out to the public if we went and spent a lot of taxpayers' money and lost the case. I think we would, from what I remember about asbestos and the time at which we became aware of asbestosis.

Mr. Chairman: Perhaps the chair could be helpful in referring members of the committee to a book called *Expendable Americans* by Paul Brodeur. If you ever have any doubts about the morality of the asbestos industry, read that book.

Mr. Gordon: The only comment I would make would be in the form of a question. Who is the public? If you keep children aside, they are all pretty well working people. That is the problem. We get set in our thinking and our ways. I do not mean you are. We get all caught up in groups—group behaviour, group points of view, philosophy and so forth. However, we have to keep in mind that the people out there, outside of children, are working people. When you talk about whether the public will accept this or that, who is the public?

Mr. Chairman: Was that a rhetorical flourish? Thank you, Mr. Cain, for your help. We are moving into an in-camera session now because we are trying to write our report. It makes it a lot easier if it is in camera. Mr. Cain, I think the committee would appreciate your presence inside the camera to give us a focus, as it were, in case there are some questions concerning policies of the board on which we need some help.

The committee continued in camera at 11:32 a.m.

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From the Simcoe County Injured Workers' Association:

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No. R-13

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development

Estimates, Ministry of Agriculture and Food

First Session, 33rd Parliament

Tuesday, November 5, 1985

Speaker: Honourable H. A. Edighoffer

Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, November 5, 1985

The committee met at 8:07 p.m. in room 228.

ESTIMATES, MINISTRY OF AGRICULTURE AND FOOD

Mr. Chairman: We are here as the result of a request from the assembly to deal with the estimates of the Ministry of Agriculture and Food. We have 18 hours to deal with these estimates, not all of which will be taken up by the minister's opening statement. We will deal with the estimates vote by vote. The first vote will include the opening statements of the minister and the two opposition critics.

By the way, we have to adjourn by 10:15 p.m. because it was agreed by the three parties that there would be a vote in the Legislature then. We will deal with the minister's opening statement tonight and the reply by the two opposition critics in whatever time is left. I will ask the the Minister of Agriculture and Food to go ahead.

Hon. Mr. Riddell: Thank you, Mr. Chairman, honourable critics, other members of the standing committee on resources development, staff, press, et al. I welcome this opportunity to talk with you about my present and future plans for the Ministry of Agriculture and Food.

With the permission of the members of this committee, I would also like to make some changes in the way this exercise has traditionally been carried out. I plan to make some brief introductory remarks and then with the concurrence of the committee call on my three assistant deputy ministers, who will each make short presentations on their areas of the ministry.

The Ontario Ministry of Agriculture and Food is a unique agency serving a unique business. There are many different links in the chain that gets agricultural and food products from the farm to the table. There are the primary producers, processors, transportation and distribution sectors, retailers, food service people and consumers. Add to these all the service industries involved along the way.

These different elements are represented by many diverse groups: farm organizations, producer groups, marketing boards and so on. There are about 420 different special interest groups in the agriculture and food area.

Because there are so many interests and points of view, I made it my first priority to meet and

talk with as many people as possible. Almost immediately after being sworn in, I organized a reception for farm leaders and representatives of all parts of the Ontario industry.

Since that time I have taken every opportunity possible to talk with the industry, in line with the theme of open and consultative government set by the Premier (Mr. Peterson). I have taken my administration to the people, attending dozens of meetings at county federations of agriculture and local milk committees.

8:10 p.m.

The primary problem facing our food producers is financial. For this reason, I have met with the senior management of all the major banks. Just last week my ministry organized a major conference on prospects for the agricultural sector with the emphasis on marketing. This brought together the farm community, the financial sector and the processing and distribution side.

However, I would not want you to get the impression that I and my ministry have been all talk and no action for the last four months. Indeed, there has been plenty of action on many fronts. I would like to highlight briefly some of this.

The one enduring fact of life that the ministry and the industry have had to deal with is the severe financial pressure facing Ontario producers and food processors. This has resulted from a combination of low commodity prices, subsidized imports, global overproduction and a very real protectionist trend in the United States.

The majority of the actions taken by my ministry in 1985 have been in response to these financial pressures. This is the reason behind our renewed emphasis on the national stabilization plan for red meat producers. This proposal had been allowed to become dormant in the months leading up to the recent federal-provincial ministers' meeting in St. John's. My ministry arranged to have stabilization placed on the agenda for that meeting. This discussion led to a revised set of proposals coming forth from Ottawa.

In St. John's I told the federal minister and my provincial counterparts that Ontario and the country could afford to wait no longer for stabilization. I have repeated this message since

then in meetings and telephone conversations with the federal Minister of Agriculture, John Wise. Throughout these discussions, I have emphasized Ontario's concerns with Ottawa's latest terms.

Basically, these come down to two items. One is that the national plan should be retroactive to January 1 of this year. Our reason for wanting this is that 1985 has been a particularly difficult year for producers of slaughter cattle and hogs. It should also be noted that had the national program been in existence for this year, prices were such that a payment would likely have been triggered in the second and third quarters.

Retroactivity is a major point. We feel the federal government should share in the cost of this, as it shares responsibility for delays in implementing this program. One feasible option is that the 90 per cent payments under the Agricultural Stabilization Act be made quarterly rather than yearly.

Our other basic concern relates to the phasing out of provincial subsidy programs. The overall issue of top-loading has been decided in our favour. There will be no adding of future provincial subsidies to the national plan. The concern of Ontario and its producer groups remains, namely, what of the present programs that have contributed to the fragmented and inequitable system existing in this country?

The original proposals from Ottawa allowed a five-year period for the provinces to phase out any existing programs. We feel it would be fairer to make this period three years. This is enough time. These programs could gradually disappear and the industry in these jurisdictions would have time to adjust to these changes.

Furthermore, once stabilization is in place, provinces that do not sign up will no longer be eligible for federal stabilization payments for the commodities covered by the agreement. Should these jurisdictions wish to continue to subsidize their local industries at the level they have been doing, they would have to make up the federal share out of their own treasuries. This can be seen as an incentive to get others to come on board.

Last week John Wise went on record as saying, "It is time to get stabilization going," adding that Ottawa was ready to sign any time. I have assured Mr. Wise that Ontario is also ready and has been ready for some time.

Later this week we expect to receive the final agreement from Ottawa. Pending a review of this final agreement, it is my intention to implement national tripartite stabilization for hogs and slaughter cattle.

At long last we are on the brink of a historic agreement. I believe Ontario's pork and slaughter cattle producers should get a payout under the new plan as soon as possible after the agreement is signed. After these initial signings we will be proceeding to develop and negotiate final agreements for producers of the other red meat commodities not covered by these first two.

I am grateful for the patience and support of Ontario's red meat producers throughout these all-too-lengthy negotiations, but I can assure them the long wait is nearly over. In fact, Ontario backed up its confidence by recognizing the provincial contribution of \$20 million for this national stabilization program in the October 24 budget.

On the subject of stabilization, we are already working towards broadening this concept to include more than the red meat industry. I have had talks with Ontario's apple, wheat and potato growers, who want to pursue national tripartite stabilization programs for their commodities. I have assured each of them of Ontario's full support as they head to Ottawa to talk to John Wise.

For our red meat producers, stabilization will pay off in the short term, as I have already noted, but its primary benefit is as a long-term, stop-loss program. As such it is one of many of our initiatives that take the long view.

The availability of affordable long-term financing for farming operations is also of primary concern. It is one this government is addressing with the special task force on farm financing set up by the Treasurer (Mr. Nixon) and myself. This is an eight-member group consisting of four agricultural experts from my ministry, one representative from Management Board of Cabinet and three economists from the Ministry of Treasury and Economics. What we want from these advisers are comprehensive recommendations to ensure our financial support programs are effective and relevant in addressing current problems.

We want a wide-ranging and thorough examination of the issues, but we recognize there is no time to lose. We have invited briefs from individuals and farm organizations and, so far, have received about 30 thoughtful responses. We have asked for a draft report on preliminary findings by the end of November and the final report of the task force by the end of February. We expect concrete, practical suggestions from this group. However, that is not our only initiative in this area.

As soon as we took office, we saw there was a substantial group of farmers that had no time to wait for us to devise long-term solutions; something had to be done for these people and right away. These were farm families who found themselves in a high-debt position because of the unfavourable circumstances of previous years. They had weathered the economic storm of the early 1980s but were still feeling the after-effects.

We wanted to help these people, on an estimated 10,000 farms, whose operations would provide a living for them under normal circumstances. Their problems arose from the fact that in the early 1980s circumstances were anything but normal. In this emergency we responded with the Ontario family farm interest rate reduction program. This cuts interest rates on long-term farm debt of up to \$200,000 down to eight per cent or by seven percentage points. OFFIRR could mean as much as \$14,000 per individual farm.

It has been enthusiastically accepted. The province's major farm organizations have endorsed it, as have farmers themselves. In the short time OFFIRR has been in place, we have received more than 1,200 applications. Cheques have already been sent to the first applicants. OFFIRR is a short-term program, for one year, but the government has also developed other measures that will benefit Ontario's farmers, which were announced last Thursday as part of Ontario's new budget.

Our intention with this budget was to present a realistic statement of Ontario's financial position and to provide a sound basis for future planning. When it comes to future planning, few industries have the economic impact of agriculture and food.

8:20 p.m.

Agriculture's share of the budget has climbed by 21 per cent to nearly \$400 million. We have reinforced our commitment to \$20 million for the planned tripartite stabilization program, as I mentioned, and funds for the OFFIRR program.

As also mentioned in the budget, \$6 million has been targeted for farmers in transition. During the course of these estimates, I hope to have most of the details in place so that we can take advantage of this opportunity to discuss them.

Similarly, there is a program of support for new crop development in the works. That also should be closer to being finalized before these debates are concluded.

The objectives of these coming programs, as well as those I have already outlined, are to improve the prospects for our family farms and the people who live and work on them. They are the backbone of this industry and, notwithstanding the opinions of some crystal ball gazers and futurists, the family farm is one institution that will endure. It will continue to be the primary source of Ontario's agriculture and food products for many years to come.

Because of this, I have taken other initiatives to bolster the farming sector in this province and the people behind it. This was the reason I took an active role in getting the tobacco negotiations restarted and bringing both sides back to the bargaining table.

The government has further supported the tobacco industry by eliminating the multiplier effect of the former ad valorem tax increases. By introducing a fixed rate of taxation in the recent budget, we have set the stage for the more orderly planning of sales on the part of our tobacco producers.

I was pleased to see in the budget another item that will improve the quality of rural life, the announcement that there will be financial support for 10,000 more day care spaces and that allocation of these will feature greater emphasis on rural day care. This will address a critical shortage of day care for farm families.

Emergency relief of a different sort was necessitated by devastating storms earlier this year in Essex county and the Timiskaming area. We were able to offset crop damage during a late spring hail storm in Essex and a July hail storm in Timiskaming by special assistance from my ministry. In Timiskaming this meant grants of \$25 per damaged acre. In Essex the special grants were equal to six per cent of the value of the uninsurable portion of their crop.

This program was carefully designed to relieve the hardship caused by these two storms, but at the same time to work in harmony with Ontario's crop insurance program. When I announced this special assistance I emphasized this was a one-time-only program and that since there would be no similar assistance in future, all Ontario farmers should protect themselves, using the existing mechanism of the Canada-Ontario crop insurance plan.

Further to this, there was a federal-provincial committee established to work with local Ontario Federation of Agriculture representatives to review the crop insurance program for northern farmers. The committee will present its recom-

mendations to the Crop Insurance Commission of Ontario later this month.

Insurance of a different type has been much in the news of late, or perhaps I should say an expected lack of insurance that was supposed to leave farmers high and dry in the face of the Environmental Protection Act, part IX, sections 79 to 112.

I took an active role in the development of regulations under part IX of Ontario's Environmental Protection Act and I feel my involvement has resulted in a better deal for farmers who were legitimately concerned about their financial risk under this legislation. I was extremely pleased with the announcement by the Minister of the Environment (Mr. Bradley) that a pool of insurance funds had been created with the co-operation of the insurance industry and that farmers would be able to obtain adequate insurance.

This was the main stumbling block to the proclamation of that part of the Environmental Protection Act, one that had prevented the previous government from bringing it into force. However, I am pleased to say this worthwhile environmental protection measure can now go forward without placing an excessive financial risk on the members of Ontario's farming community.

There remains one major area of the ministry's activities with which I have not yet dealt. Thus far I have been concentrating on the quality of rural life, financial stability for our food producers and protection from risks of various kinds. I would like now to introduce one final subject area, which is marketing the good things that grow in Ontario.

The government of Ontario is working with the federal level and Ontario's fruit and vegetable growers on a unique cost-sharing arrangement, a comprehensive study of the future of our fresh fruit and vegetable industry. This will examine all aspects of market expansion for these fresh Ontario products, as well as the critical element in any discussion of this sector's future, import replacement.

I also have contracted for an in-depth study of pork marketing. I want to know the opportunities and problems that face Ontario's slaughter and processing industries; and specifically, the opportunities for Ontario pork products in North American and foreign markets.

A month ago, at a ministry-sponsored seminar, an incoming trade mission of Japanese buyers presented the choices Ontario agriculture must make to compete in Japanese markets. This

is an example of the type of marketing partnership on which we would like to do more.

There used to be a viable program of government-producer co-operation at work in agrifood marketing. Under Foodland Ontario's shared-cost program, the ministry would join with marketing boards and producer groups and help to underwrite the costs of promoting their commodities. However, this was let slide by the previous administration to the point where we now are trying to reverse this decline and revitalize the entire program.

We also would like to change the emphasis somewhat. In the past, the majority of activities under the food land shared-cost program were aimed at the shopper buying products for use in the home. However, people are dining out for about one meal in three at present and this trend is expected to increase to one out of two by the end of the decade. Therefore, we want the shared-cost program to reflect this and are planning to concentrate more on the food service industries—the hotel, restaurant and institutional markets—for Ontario-grown products.

These marketing activities are centred within Ontario's borders. Now I would like to go further afield for a few moments and look at international marketing.

Our newest initiative in the area of marketing is the expansion of our export market development program. This is a \$1.5 million investment designed to build on the tremendous gains Ontario has achieved in food and agricultural exports, now running at around \$2 billion a year.

We are concentrating on the United States, which is both our best customer and the area with the greatest potential for future growth. Our export market offensive has seen the opening of onsite offices in key American cities, such as New York, Los Angeles, Dallas and Chicago. We have staffed each of these with an export marketing specialist, an American citizen familiar with the territory. We want to make our dealings with the United States truly nationwide, instead of centring on the states immediately across the Great Lakes, as was the case in years past.

Any discussion of present actions or future plans in the area of marketing to the United States brings up a subject much discussed of late, and that is the matter of so-called "enhanced access" to markets between the US and Canada, known in some quarters as "free trade". This still is very much at the discussion stage. There seem to be as many opinions and voices south of the border as there are in this country.

However, the fact remains that the potential impact is overwhelming. To say the least, it would be an immense challenge to government, industry and the current marketing structure to cope with all this term implies.

My ministry will be working closely with the provincial agrifood industry, other ministries of the Ontario government and federal departments. We want to fully examine all the options and the implications for Ontario and provide a clear and reasoned response to any and all proposals put on the table.

8:30 p.m.

At this point, I should note agriculture will be on the agenda of the first ministers' conference in Halifax later this month. This will be the first time agriculture has been addressed by the Prime Minister and the Premiers. I can assure you the Premier of Ontario will be speaking of the need for a national agricultural strategy and Ontario's role in it.

With respect to relationships between Ottawa and the province, we have improved the ways in which the provincial and federal governments can work together. This was part of the memo of understanding I signed earlier this fall with the federal Minister of Agriculture, John Wise.

It will reduce duplication and improve co-ordination of policies. It also will allow us to examine co-operative efforts to expand the industry. I would expect these co-operative ventures to focus on commodity development strategies in fresh fruit and vegetables, pork and, possibly, tobacco and grapes, as well as other areas such as soil and water management.

My ministry is also working to improve protection plans for food producers. These safeguard producers from payment defaults on the part of those buying their products. The milk fund was the original but there have been several added over the years, including one for grain producers. This protection fund was called on by producers of grain and soybeans following the insolvency of one grain dealer.

In addition, the government also supplemented this protection, extending it to other producers who were using different marketing methods but who likewise stood to be hurt by this financial situation. In future, we want to put amended regulations in place, in consultation with the grain industry, to improve the effectiveness of this protection plan.

Speaking of plans, one ongoing activity of the Ministry of Agriculture and Food is to develop its own strategic plan. We still will help the farmers

of Ontario to help themselves. We are looking at better ways in which we can do this.

There probably will continue to be restructuring of our farm and food sectors as the aftermath of past inflation, failure of international economic and agricultural policies and changing domestic and global demands. These will require staying on top of this adjustment process on a continuing basis. By examining and re-evaluating our role, and the services and assistance provided as part of this strategic plan, we can better serve the farming community.

In the course of this review, the ministry has looked at its own organization and that of the agencies, boards and commissions that report to it. For example, we can be more effective in assigning marketing authority to commodity boards by combining the Ontario Farm Products Marketing Board and the Milk Commission of Ontario. We also are going to add producers, processors and a consumer representative to this new board to widen its expertise and interaction with the agricultural industry.

Furthermore, this process has resulted in realigning the ministry's internal organization, leading to the creation of three new branches. The economics and policy co-ordination branch was organized in October 1984 to strengthen the ministry's ability to analyse issues and events and formulate policy. This has meant we can respond more quickly to the needs of the industry.

In April, the soil and water management branch was established, uniting responsibility for soil conservation, surveying and classification. This was done by amalgamating groups from other ministry branches working in these areas. Also, to respond to the increasing need for office automation and data processing support systems, we created a new management systems branch.

These changes and additions amount to fine-tuning the organization. Overall, the basic structure remains the same. The ministry is organized into three main areas of responsibility, each under an assistant deputy minister. Marketing and standards includes our food processing, market development and farm products marketing branches, as well as our inspection services for dairy, livestock, fruit and vegetables. These come under the assistant deputy minister, George Collin.

Finance and administration is the responsibility of assistant deputy minister Rita Burak. Her territory includes food land preservation, farm assistance programs, crop insurance and stabilization and the ministry's internal administration,

such as the new management systems branch I mentioned earlier.

Technology and field services is, as the name suggests, a wide-ranging section of the ministry. Assistant deputy minister Clare Rennie looks after the operation of Ontario's five colleges of agricultural technology, services for rural organizations, the Ontario Agricultural Museum, veterinary and agricultural laboratories, soil and water management and agricultural research. This area also takes in our advisory services to farmers—the plant and animal industry branches and our local agricultural representatives.

These three people have come with me today to provide further details on the workings of their specific areas and, if you agree, I will be calling on them in a few moments.

I have been deliberately brief. My intention was not to monopolize your time but to give you an overview of the current economic climate of the agriculture and food industry and to highlight the policies and programs developed in response to this. From my previous years' experience in this process, I know the key is dialogue, not monologue, and I want to give you as much time as possible to address your concerns.

Before I do that, with your indulgence, I would like to turn the proceedings over to my three assistant deputy ministers, beginning with Dr. George Collin, assistant deputy minister of marketing and standards.

Mr. Chairman: Could I intervene for a moment? May I assume that members of the committee are in agreement with this? It is a change from the standing orders. Are there any objections by members of the committee? It is up to members of the committee to approve this process. No problems? Okay.

Dr. Collin: I would like to add some detail to the minister's remarks concerning changes in the marketing and standards sector of the ministry. With the reorganization of April 1985, the sector was streamlined into two divisions: a marketing division and a quality and standards division.

I would like to pass around the organization charts of these two divisions. We will not overload you with paper but it does give you an opportunity to follow the text.

While the organization chart is being handed out, I would like to preface my remarks. I would put the emphasis on people—the people being the staff of the ministry who have worked to provide the progress over the past year.

Mr. Gordon: On a point of order, what page is that?

Mr. Chairman: Mr. Gordon raises an interesting question. Sorry to interrupt you but the reason I asked for a consensus by the committee is that this is outside the normal process of the standing orders. That is why I asked for the members' permission to proceed.

Technically, we are under vote 2101 of the estimates of the Ministry of Agriculture and Food. I hasten to add that the time on that vote is to be apportioned among the minister and the two opposition critics. This is a deviation from the normal process, even though it might have been done before. That is why I was careful to ask the committee's permission to proceed.

The standing orders suggest that the first vote is generally a rather free-wheeling debate. It includes the minister's statement and the opposition critics' replies which need not be restricted to the first vote in the estimates book.

The members of the committee did agree to go ahead with the process as recommended by the minister. Is there any problem with that?

8:40 p.m.

Mr. Stevenson: I do not see it as a problem as long as we are assured that ample time will be allowed for discussion on the first vote.

Dr. Collin: In my remarks I will put the emphasis on people, staff at the ministry who have worked to provide the progress of the past year and the direct support for the minister's programs.

I became assistant deputy minister, responsible for the marketing and standards sector, six months ago.

The first change in organization relates to financial protection programs offered to producers of grains, beef, eggs, fruit and those processing vegetables. These are the programs that ensure prompt payment to producers for delivery of their commodities. The financial protection unit was moved from the marketing division to report to Dr. Ken McDermid, executive director of the quality and standards division.

This financial protection unit provides for the financial evaluation of processors and buyers of the specified commodities. It in turn advises the licensing authority as to whether a licence applicant is financially responsible. Both the financial protection unit, headed by John Batt, and the investigative unit, headed by Doug Grout, are now in the quality and standards division.

This reorganization is designed to improve efficiency in licensing and in processing claims against funds established under the financial

protection programs. Financial boards composed of both producers and processors or dealers are now established to review and determine the validity of claims against the funds for beef, grain and processing vegetables.

Dr. Ken McDermid, as vice-chairman of each financial protection board, provides, through the division, for the administration and ensures the continuity of the programs. In the past year, 103 claims have been approved for payment from protection funds. The issue of compensation for producers who sold corn and soybeans to R. B. McKinlay and Sons Ltd. on basis-option contracts has been resolved by the establishment of the special compensation program.

The government, in line with provisions of the Farm Products Payments Act, has provided a grant of \$25,000 and an interest-free loan of \$250,000 to each of the corn and soybean funds. Four additional staff members have been assigned to the division to assist in financial analysis and licensing of dealers.

This year to date, 17 firms have been charged with processing or dealing without a licence.

Jim Wheeler is the director of the fruit and vegetable inspection branch and is responsible for the licensing of grain elevator operators and grain dealers under the financial protection program.

Dr. George Fleming, director of the livestock inspection branch, is responsible for licensing 470 livestock dealers who deal in beef cattle.

In addition, Dr. Joseph Meiser, director of the dairy inspection branch, is responsible for licensing over 500 milk processors and distributors. In this latter case, the assessment of financial responsibility is handled by the farm products marketing branch of the marketing division.

The apiary or, if you prefer, bee registration and inspection program previously provided for the ministry by the University of Guelph was brought directly under the control of the fruit and vegetables inspection branch. An extensive survey of Ontario apiaries was carried out for the presence of honey-bee tracheal mite. This pest is widespread in the US but has not yet been identified in Ontario.

Turning to the second division: in July, Russell Duckworth was named executive director of the marketing division. He brings to this senior position many years of executive responsibility in production processing and marketing of agricultural commodities through his employment by United Co-Operatives of Ontario and Canadian Cannery Ltd.

An additional and new responsibility was given to the new executive director. He is the lead in the ministry for international trade issues. This responsibility is covered in the marketing division with the support of the economics branch for the complex issues of the General Agreement on Tariffs and Trade negotiations, which are expected to start in 1986, the federal free trade or bilateral trade negotiations with the United States and trade irritants with US border states.

In regard to these trade issues, a federal-provincial agricultural trade committee was established by provincial agricultural ministers. At their recent meeting in St. John's, Newfoundland, they provided it with terms of reference and responsibility in trade issues. The ministers asked that the committee assure provincial and industry input into the trade negotiations, which are the responsibility of the federal government through the Department of External Affairs and the Department of Agriculture. This federal-provincial committee combines representatives of agricultural ministries of all provinces with those of the Agriculture and External Affairs departments.

Additional ministry export development staff was hired to identify and develop new opportunities for export sales, primarily in the United States and other markets abroad. We have hired five full-time marketing specialists representing Ontario agriculture and food products in key US locations. They have offices in New York, Chicago, Los Angeles and Dallas, and from there can cover the country. The director of the market development branch is Graham Richards.

The minister mentioned a comprehensive study of future market opportunities for the fresh fruit and vegetable industry. This study comes under the responsibility of the marketing division, and it has initiated two other significant studies.

First, for the pork industry, there is a study of the problems and opportunities for the slaughter and further processing trades in the markets of Ontario, other provinces, the United States and offshore markets. It takes into account the recent application of countervail duty, the strong slaughtering capacity of Quebec and the tough competition of European pork in international trade markets in which Ontario has traditionally found sales.

For the food processing sector, a study of new trends in processing and the needs for service and adjustment in the future of the industry is being

co-ordinated by our food processing branch under the directorship of Brian Slenko.

I mention these three studies to emphasize that we are also sensitive in preparing for the major changes predicted for marketing agricultural commodities in this buyers' market.

An additional study has been completed on the organization and terms of reference for the farm products marketing branch, which supervises 25 commodity boards established under the Ontario Milk Act and the Farm Products Marketing Act.

The report, authored by Kenneth Knox, director of the rural organizations and services branch, puts emphasis on the need for producers, processors and consumers to be members and to participate on the supervisory board. The report also emphasizes that education and research must be added to the traditional supervisory role for the Milk Commission of Ontario and the Farm Products Marketing Board.

As part of the reorganization, the responsibility is to be streamlined by combining the two boards into one supervisory board. Kenneth Knox is to become director and chairman of the supervisory board in mid-November to carry out the recommendations of the study.

8:50 p.m.

On behalf of our senior staff, I want to record some of the significant accomplishments in the programs of the marketing and quality and standards divisions.

This year, we expect to bring in 15 delegations of buyers from other countries. This will give about 60 Ontario companies the chance to show what they have to offer in sales of agricultural commodities and food products. These missions let the foreign buyers see Ontario's distribution, processing and transportation systems, all factors that can influence a successful sale.

For every trade mission coming in we have more than two going out, taking Ontario's suppliers of agricultural commodities and food products to meet potential customers in the world marketplace. This year we will see about 250 Ontario companies take part in 35 agricultural trade missions to about 50 foreign markets.

We have had our greatest success in the United States in trade. The United States is the final destination for about 60 per cent of our agricultural exports from Ontario. It is at one and the same time our biggest customer, our fastest-growing market and the area where we have the greatest potential for future growth.

Earlier this year, we sent our first-ever trade missions to Houston and Miami, with very encouraging results—\$5 million worth of new

business in Miami and more than \$4 million in Houston. A recent trade mission to Chicago, the first involving one of our new US specialists, resulted in sales of \$7 million of products.

The food processing branch has co-ordinated the approval of \$26.6 million worth of projects for food processing, fruit and vegetable storage and packing facilities. These projects are to be completed in the 1985-86 fiscal year.

The programs of the quality and standards division provide a quality control function for a large part of the agricultural industry. These programs assure the public of a wholesome meat supply by inspecting 300 plants across the province. Each year these facilities slaughter more than a million red meat animals and more than eight million poultry.

We also administer legislation—the Live Stock Community Sales Act and the Dead Animal Disposal Act—which provides for protection against the spread of animal diseases.

Earlier this year, the Ontario Cattlemen's Association and the ministry set up a task force to review and implement new initiatives for the beef industry. This task force has assessed and made recommendations respecting standardized procedures in plants, the weighing of live cattle and the provision of inspection services. The task force is currently investigating the need for improved market information.

Our dairy inspection branch is involved at every stage that gets milk from the barn into the grocer's case. We inspect about 200 processing plants. We issue licences relating to distribution of dairy products, the building and operating of processing plants and certification of the people who work in them.

In addition, our central milk testing laboratory monitors the milk for nearly 11,000 producers in the province for composition and quality. The lab's findings are the basis on which payment of these products is calculated. Last year, this facility was completely modernized with the help of \$1.6 million in provincial funds.

Through the central milk testing laboratory, the first farm-separated cream quality program in Ontario will start in February 1986. Cream from more than 2,000 cream producers will be graded and reports mailed to these producers.

Our fruit and vegetable inspection provides a guarantee of quality and a grading system for Ontario's fresh produce industry.

In closing, it has been a pleasure to highlight some of the changes in staffing and organization of the marketing and quality standards divisions. I will be pleased to add further to the brief

comments regarding the progress of the specific programs within the two divisions.

Mr. Chairman: I am in a difficult position, because even though the committee agrees with the process, it is not appropriate that we turn over this amount of time to the ministry. I believe we should revert to the tradition that the leadoff statements are made by the minister and the two opposition critics.

Unless the members of the committee object, I suggest we now go to the reply by the opposition critic for the Conservative Party and then the reply by the New Democratic Party critic. If the ministry people want to make their input, there will be ample opportunity as these estimates go on.

Hon. Mr. Riddell: We are prepared to abide by your ruling. The only reason we thought we might give the committee an opportunity to hear from the people in charge of the various branches was that, as I look around the room, there are at least seven new members who have never sat on the standing committee for resources development before to hear the estimates of the Ministry of Agriculture and Food.

As I look around at some of the other members, I am not convinced they have sat in on the committee stage of the Agriculture and Food estimates. We thought that if they wanted a greater insight into what the ministry is all about, this would give them an opportunity. If you feel it is a waste of time, I strongly suggest that we move on to the critics' comments.

Mr. Ramsay: I am impressed with the type of presentation we are seeing here tonight. I would like to hear from the different assistant deputy ministers about what their subdepartments are doing. It is of particular interest because we have had a change of government. It would be very interesting to hear about the imprint the new government has made upon the ministry. It would be very helpful to hear that before we comment.

I have quite a lengthy opening statement and a list of questions prepared, but I am prepared to listen to the minister's staff. I look upon them as arms of the minister. He is asking his assistant deputy ministers to report to us. I am quite content with the process.

Mr. Stevenson: If the committee wishes to hear the other assistant deputy ministers, I am quite happy with it. I would just ask the members of the committee not to wait for the imprint with great anticipation, because they are likely going to need a magnifying glass.

With respect to the operations of the ministry and so on, if it is informative to the committee, I am quite prepared to let it go ahead, provided we have ample time to discuss the issues at some later point. I suspect that at least some of the questions will come up later in any event, perhaps not in quite the same detail, but undoubtedly they will be asked to explain various things. If it is in the interest of the newer members in particular to hear some of it, I am quite happy to allow it to go ahead.

Mr. Chairman: I was merely concerned from the viewpoint of the members of the committee. If the members of the committee have no objections, we may proceed.

Hon. Mr. Riddell: This is Rita Burak, assistant deputy minister of finance and administration. Be brief so we can get on with the critics' comments.

9 p.m.

Mrs. Burak: I can assure the chairman that I will be brief. The minister in his statement has already scooped me on many of the activities in my division.

I would like to direct the committee members to the organization chart that was provided for them in the briefing books. I will take them through that organization chart very quickly.

Our division encompasses both the ministry's financial and administrative services functions as well as programs dealing with foodland preservation and financial support for farmers.

The financial and administrative support branches are similar to those found in other ministries. For example, personnel, headed by Bob Johnston, looks after recruitment, compensation, staff relations and training for staff in the ministry. The audit services branch, headed by Verne Macdonald, conducts financial audits and operational reviews on a cyclical basis for all of our branches and schedule 1 agencies.

The financial and support services branch, which is headed by Michael Keith, provides financial planning and control for the ministry as well as accounting services and administrative support. The new management systems branch, which reports to the executive director of foodland preservation and financial programs, looks after the ministry's data processing requirements.

On the program side, the executive director, Henry Ediger, has three program branches reporting to him. The first is the foodland preservation branch, headed by Don Dunn. That branch's primary functions are implementation

of the foodland guidelines and monitoring non-resident ownership of farm lands.

The farm assistance programs branch, which is headed by Nancy Bardecki, administers a number of financial support programs; for example, the Ontario family farm interest rate reduction program, the farm operating credit assistance program, the beginning farmers' assistance program, the tornado disaster relief funds set up to look after the situation created by the Barrie tornado, the hail damage assistance programs in Timiskaming and Essex county, the 16 livestock assistance programs, AgriNorth, the junior farmer loans programs, agricultural and rural development agreement properties and seasonal housing and the Ontario farm tax reduction program.

The director of this branch, by the way, is the chairman of the interministerial task force on farm financing, which the minister mentioned in his statement.

The final program branch is the crop insurance and stabilization branch, headed by Morris Huff. As its name implies, the branch administers the Canada-Ontario crop insurance program and the existing provincial stabilization programs for apples and small grains. This branch will be responsible for implementing the tripartite stabilization programs which the minister has indicated will be on stream shortly.

That is a very brief outline of our division's functions, and we too look forward to answering any questions you may have as we go through the votes.

Hon. Mr. Riddell: Dr. Clare Rennie has the last comment on his branch, technology and field services.

Dr. Rennie: It might take a week, but I will try to be brief. To give you a quick overview—and I ask that you continue looking at the organization chart Rita Burak brought to your attention—the right-hand side of the chart, if that is meaningful in any way, is the technology and field services wing of the ministry.

In this wing of the ministry we have a total staff of approximately 1,400. In a sense, its headquarters is all of Ontario; only about 20 of that entire group are located here, myself and my staff, and one branch, the consumer information centre. The rest are outside of Toronto, the major group being at the Guelph Agricultural Centre and the rest spread throughout all the counties and districts of the province.

Two divisions located in Guelph—the education and research division, headed by Rob McLaughlin, and the advisory and technical

services division, headed by David George—were combined to try to tie more closely together the education component and the research, and then the transfer of technology to its users across the province.

In education research there are eight units in total, made up of one branch, one agricultural museum, one horticultural research station and five colleges. The latter, as some of you know, are located across Ontario: in Ridgeway, Centerville, New Liskeard, Kemptonville and Alfred. There is also the diploma program at the University of Guelph.

These colleges offer diploma programs plus continuing education extension services to the agriculture and food industry and applied research.

As far as the agricultural museum is concerned, by collecting and restoring and displaying artefacts, tools, machinery, the Ontario Agricultural Museum at Milton, which I hope many of you know about, depicts the evolution of Ontario's agriculture and food industry. We want to enlighten, educate and entertain the general public.

This is a living museum and it is being built for future generations as well; history as well as the future. The season runs from May to October with approximately 60,000 people a year going through, with a major education component for school children.

The Horticultural Research Institute of Ontario with headquarters at Vineland has four units. There is Vineland, which has the research station, plus a horticultural products laboratory, the Simcoe research station and the one in the Bradford marsh at Kettleby. The major laboratory for wine research is the only one in Ontario.

The other unit in the education and research division of this section of the ministry is the rural organizations and services unit, what you might call the people branch of the ministry. It is involved in leadership development, adult education, youth education through 4-H, farm employment, junior farmers and the new agriculture in the classroom program which was introduced a couple of years ago. It provides resources for rural organizations.

The programs range all the way from leadership seminars held locally to courses in time and stress management and so on. It also provides assistance to such organizations as the Junior Farmers' Association of Ontario, the Ontario Association of Agricultural Societies, horticultural societies, the International Ploughing Match and Farm Machinery Show, the Federated

Women's Institutes of Ontario, Women for the Support of Agriculture and so on.

The other division of the ministry is the advisory and technical services with six units. Probably the most well known one is the agricultural representatives branch. For more than 79 years it has provided general extension in education for the farming population. This branch is unique. Within OMAF and through its extension programs, it maintains contact with a high percentage of the farmers of Ontario.

A particular responsibility of the people within that branch is the management of the county and district offices—54 of them across the province—and co-ordination of county programs, with their main expertise being, in recent years, farm financial management.

The plant industry branch is divided into five major programs: plant industry services, agro-climatology, pest management, crop advisory services and our energy centre. Its responsibilities range all the way from advisory and diagnostic programs in crop production through sugar bush management, integrated pest management, fuel conservation and weather radio to administration of the Weed Control Act.

The veterinary laboratory services branch provides diagnostic, investigative and consultative lab services to the livestock and poultry industries of the province, to the veterinary profession, to other sections of the ministry and to other government programs. The services cover farm and companion animals and wildlife. There are six of these veterinary laboratories across the province, including one at New Liskeard, one at Centralia, one at Ridgetown, one at Brighton and the major one at Guelph.

This branch also, you might be interested, has a fur farm specialist who administers the act under which all fur farms in Ontario are licensed and provides advice on management, nutrition and so on.

The agricultural laboratory services branch covers three major programs. The pesticide laboratory, which is a provincial residue pesticide laboratory serving other ministries for pesticide elemental analysis, acts as the management arm for the ag-food labs that perform our soil and feed testing, and it also works with the University of Guelph in the pest diagnostic and advisory field.

9:10 p.m.

The animal industry branch has three major areas of activity: advisory services provided to the industry by our livestock and poultry specialists; an animal care component; and

genetic improvement programs. This branch delivers veterinary extension services to practitioners, ministry staff and agribusiness and it runs the designated veterinary assistance program for northern Ontario and parts of the east. It provides the specialized extension services in support of ministry programs and it co-ordinates the red meat development program. It has specialists in the areas of dairy, beef, swine and sheep.

The other branch, the one located in Toronto under the directorship of Vernon Spencer, is the soil and water branch. The minister, in his opening comments, referred to it as being newly formed to give emphasis to soil conservation, drainage, soil survey, land use and water quality.

In conclusion, I want to draw attention to the chart. The one major area I want to make reference to is the Agricultural Research Institute of Ontario. You will see a block up there that is an advisory body to the minister. This is a body, appointed by an order in council, made up of farmers and agribusiness people who advise on the relevance of the agricultural research program of the ministry.

In that regard we do administer, under Dr. McLaughlin, an education and research division which is the major University of Guelph contract for research. Many of you may not know that we operate the major program at Guelph in research, the diploma program, and various services in agriculture and veterinary medicine under contract with the university. The government owns five research stations there which are operated by the university under contract with the ministry.

I will conclude with a reference to a unit here in Toronto, the Consumer Information Centre located at 801 Bay Street. We talked about our county and district offices being a store front of the ministry in rural Ontario; the Consumer Information Centre is what you might call the store front for urban Toronto and for the urban population.

It is accessible to the public and houses all our ministry publications, which helps cut down the cost of distribution. We have four staff members there who provide advice and information. There are about 3,000 calls or contacts in the areas of nutrition, horticulture and agriculture running through that small operation each month.

Those are my comments, a brief overview of the technology and field services wing of the ministry. I look forward to questions and discussion.

Mr. Chairman: We will now revert to the responses by the opposition.

Mr. Stevenson: In starting these discussions, we should congratulate the minister on his appointment. The position of Minister of Agriculture and Food is a difficult and interesting one. As one looks over the various cabinet positions, it is a high-profile and high-pressure position and I am sure the minister has become aware of that already.

I want to take a moment to speak about a person on the staff of the Ontario Ministry of Agriculture and Food who passed away rather unexpectedly this summer, Bernie McCabe. In doing this, I hope I do not slight any other members of the ministry who may have retired or passed away during this year.

In my brief stay in the ministry, I worked reasonably closely with Bernie. I found him to be a very bright, innovative person who had ideas. He was a person who did not simply react to problems. He could solve them and get information very quickly, but he also had leadership ability and innovative ideas. I found him to be an exceptional person. I am sure the ministry will miss him and he will not be an easy person to replace.

I spent some time with him outside work hours, although I worked fairly long hours in my stay there. We talked on a number of occasions. He was a very good family man. We talked at some length about his son, of whom he was quite proud. We had a good friendship going and I am very sorry to hear of his passing.

I guess our longest visit was the time we flew to Ottawa to make the OMAF presentation to the tripartite stabilization hearings. The deputy will know he was a former Iowa State University grad and so he immediately had something good going for him. I pass on to his family my personal feelings and those of members in our caucus who have worked closely with the ministry.

I want to discuss briefly a few issues that are important to the agricultural industry, look at some of the programs in the ministry, some of the things that have happened in the last few months, and maybe in particular hold a brief discussion of some concerns I have in what is happening in the agricultural industry in Canada and across the world.

We can look at any number of speeches, presentations and position papers and it is clear the recession in agriculture has not ended. Our producers in Ontario will be facing a period of stagnation in net incomes. Right now, their trend is downward. At best, they can look for a period of slow growth. We have seen decreases in land values occurring at a rapid rate in some parts of

the province. We are seeing increases in the severity of international trade and the various stresses resulting from that. We continue to see high production costs and high real interest rates, and yet the commodity prices are very low relative to the costs of imports. They are probably as low as they have ever been.

Looking at the situation, one has to be very concerned not only about the current situation our farmers find themselves in but also the future of our primary producers and, therefore, indirectly about the whole agricultural industry in the province.

9:20 p.m.

I will refer from time to time to some of the comments made in the minister's opening presentation. The minister almost refers to this long-term view of the agricultural scene in Canada as if it were something new or of new concern. The idea of trying to create a Canadian common market in the agricultural area has been around for as long as I can remember in my time in professional agriculture.

In recent years, we can find any number of press releases and speeches saying there is better co-ordination among the nations of the European Community than there is among the provinces of Canada. That has gone on through any number of governments and political parties. I wish the current first ministers well in their undertakings to try to improve that situation. I am pleased to see the federal government is taking that initiative. We have waited many long years for that sort of approach. As I say, it has lasted through several governments with various political parties involved.

It is safe to say Ontario traditionally has taken a statesman-like approach to the problems facing Canadian agriculture. The latest example would be the tripartite stabilization exercise that has been going on for close to three years, in which I can say we have purposely tried to stay out of the war of the treasuries between provincial governments. We did that with the co-operation of organizations like the Ontario Pork Producers Marketing Board and the Ontario Cattlemen's Association, because those organizations, at any one point, felt the stabilization program would be forthcoming, have some teeth in it and be in the best interests of all producers in Canada.

As one looks back at any particular snapshot of time, one can question whether that was the right decision. I believe that was the understanding between the provincial government at the time and those two producer groups in particular.

Hence we have seen the development of that program, albeit terribly slowly.

I would say the slowness has been due to two federal governments that were unwilling to exert the necessary leadership to put that program in place. Even now, with the problems between the provinces and the various provincial caucuses of the federal government, we see how the delays have continued and how the influences of various interest groups have altered the shape of that program, certainly not to the benefit of Ontario producers.

One other change that has happened is the final placement of the countervail action against Canadian pork. Again, that has been an issue for close to a year but the final decision was brought down just this mid-summer. Those two items, more than anything in recent times, signal to me that there is a new reality in the area of marketing agricultural products and the development of agricultural policy to deal with the situations that will be facing us domestically and internationally.

We can look at what Alberta has done in the last month. It has spent some \$140 million on a program that was put into place to support its livestock producers to counteract the effects of the Crow rate. Granted that is not, as such, a side-loading or bottom-loading program for the tripartite stabilization program, but it is clearly going to have a major impact in that province. It is an indication that Alberta has taken off the gloves. The statesmanlike role that Ontario has played over the years must be reviewed.

Just a couple of weeks ago, Alberta announced another \$43-million bipartite program. I am not exactly sure what the status of that is going to be if the tripartite agreement is finally signed. However, it is clearly another indication that the only province that stuck with Ontario and its statesmanlike approach to trying to solve the complexities of the Canadian agricultural market has once again taken off the gloves.

I believe these developments are going to have to be watched very closely by the Ontario government. Our producer groups cannot continue to work in the best interests of Canadian agriculture and keep taking it in the teeth every time they turn around.

Mr. Ramsay: Where the hell were you guys the last couple of years?

Mr. Stevenson: I am saying that things have changed a lot in the last few months. What we did, we did in co-operation with the Ontario Cattlemen's Association and the Ontario Pork Producers' Marketing Board. If you do not

agree, we can go out and phone them. They will tell you the same story.

There have been very few demands from those two groups, maybe no demands for special assistance from the Ontario government while the discussions on tripartite stabilization have been going on. Now we see this program coming forward. I hope it comes forward, as the minister suggests.

The Ministry of Agricultural and Food in conjunction with the minister at the time, Mr. Timbrell, called the first meeting on tripartite stabilization. I understand it took a leadership role in co-ordinating the development of that program. The lack of leadership by two federal governments has led to a very slow development of that program.

I am not sure what the minister meant by the dormancy of the program. There was no dormancy during the period I and the ministry officials at the time had anything to do with it.

9:30 p.m.

I have a number of questions about tripartite and how it will work and how programs of other provinces will be affected by it, but I will leave it until we get to that vote and discuss it more fully then or at some later time during the first vote, whichever the committee wishes.

In the area of marketing, again the countervail actions we are now seeing, the pork action taken by the United States, the one taken by Canadian beef producers and the possible impending action on sugar and/or sweeteners in this country, clearly indicate the rules of the ball game. Last week, when the United States slapped a tariff on pasta and something else coming into the US from the European Community and then the EC turned around and put some tariff or duty on nuts coming from the United States, there was also a good indication of the increasing protectionism in international agricultural markets.

As governments, we really have to look hard at two items in this area. The first is having another look at export subsidies. They are used daily by the European Community and are allowable under the General Agreement on Tariffs and Trade. They are used quite regularly by the United States. A good example right now is the fact they are unloading 800 million pounds of tobacco to anybody who will buy it.

Canada has not been very active in that game but I would certainly say we play it, particularly in the export of wheat. We never see the details of Canadian Wheat Board sales. We see a certain dollar figure and a tonnage or bushel figure but

the details of financing and so on are never released.

With the success the Canadian Wheat Board has had in the international market, I think it is safe to say they have to be aware of the rules in the international marketplace and must be playing the game fairly well. I am not suggesting the Canadian Treasury, with some assistance from the provinces, can possibly compete in international markets on a long-term basis with the European Community and with the United States; however, from time to time, when we have a glut situation in Canada or Ontario and are close to closing a deal, as governments, we have to look for imaginative ways to accomplish that.

Certainly, if some of the money that is going into top loading and various other support programs across Canada could be rerouted into programs that were not subject to countervail and allowable under GATT, they might be a lot more helpful to Canadian producers than in their present forms. Although I understand provincial governments are not really allowed to get into financing exports, I refuse to believe there are not imaginative ways they can get involved.

In fact, I believe there is in these estimates a figure of some \$300,000 for something that was done in the past. I think maybe there was a bit of imagination in that figure. I forget what it was for but I will look it up. I am sure there are ways of helping.

I have forgotten one other thing here. Oh yes, it seems to me the provincial and federal governments have to become more co-operative with producer groups that are either defending themselves in an export market or trying to defend a domestic market. It is easier for producer groups in the United States to deal with their governments, particularly their federal government, in some of these actions, and I feel we must come forward.

I know the provincial ministry has helped with time and resources but we have to take a serious look at financially assisting these groups and maybe even helping them with some people on a short term basis to investigate the economic impact of dumping into this country or defending an export market.

We have seen how the latest pork countervail action in the United States has put extreme financial stress onto the Canadian Pork Council. I understand at one point there was, and maybe still is, some question as to whether that organization was going to survive or not. I use the pork industry as an example. When that industry is under real financial pressure, produc-

ers are unwilling to come up with a great deal of funding to help their producer organizations, and this is the time when some of those producer groups need the most help.

I would hope the provincial government would look seriously at finding ways of assisting and I hope the federal government will look at altering the procedures and process to make it easier for the groups to launch anti-dumping action here in Canada. I understand the minimum fee to take action is \$100,000. I accept the fact there has to be some fee so there will not be frivolous actions taken and so on, but we are not terribly helpful to our producers in trying to protect a domestic market.

In the minister's statement I noticed his enthusiasm about marketing. I welcome that sort of attitude. Regarding the enhancement of the Foodland Ontario program, I will be interested to see how he has altered that. That was under review when I was there and some funding had already been brought forward for that program.

The idea of expanding the advertising into the out-of-home food trade had been discussed for some time and is an area for expansion. I hope that Foodland Ontario enhancement program goes ahead in a positive way.

9:40 p.m.

It is with some regret that I notice that the present government closed two of the United States trade offices. Now there are only four instead of six. That means the staffing in the agricultural area down there was cut from six back to what I thought was four, although somebody said it was five. There are two working out of one office and undoubtedly they will help increase the trade in the United States, or maybe we should say hold the trade there because clearly if the US dollar continues to slide and the Canadian dollar strengthens relative to it, as many hope it will, it is going to make the competitive nature of Canadian products in the American market somewhat more difficult.

As for the budget itself, I have some questions about the actual numbers and I want to go over some of those briefly now and to a greater degree later. It is my understanding, and I believe the Treasurer (Mr. Nixon) stated this in the House, the actual estimate figures presented here are identical, number for number, with what would have been presented had we had estimates earlier in the year.

It is also my understanding in looking through those estimates that, other than the possibility of the tripartite stabilization program, this figure of \$361 million is presented without any election

plums from any political party. I would like to check that later.

When I look at the \$361 million and at what I think is in those figures, and add what was approved while I was minister, though I cannot be sure of the length of some of the programs, I come up with figures ranging somewhere between \$380-385 million. The budget is now \$399 million.

I am having some difficulty figuring out how \$361 million plus \$50 million, plus tripartite, plus \$6 million for transition for farmers adds up to \$399. I am sure the ministry staff will be happy to help me with my addition problems. When one looks at the \$361 million and the numbers promised by the Progressive Conservatives and the Liberals, there have been some cuts somewhere. We will go into that in more detail later.

A few items I will go over now, in no particular order, are concerns of mine that I wish to discuss in greater detail at some later time.

One is the growing marketing of margarine that is in contravention of the Oleomargarine Act. Certainly, today, in any municipality in Ontario, you can find this margarine. It has always been there to a degree, but particularly this summer the violations became almost flagrant. It is just everywhere. I would like to find out whether the minister is going to stand up for the milk producers of the province or for the soybean and canola growers. How is he going to deal with that particular issue?

Another issue that came to my attention in a very tragic way a couple of weeks ago was the death of a young man, Don Wright, whose parents live in my riding. He was a partner in an operation, a well-known tile drainage firm that operates largely outside my riding. It is one of the better applicators and is an excellent company to deal with. He was ploughing in tile drainage north of Oshawa and struck a pipeline of TransCanada Pipelines and was burned to death on the spot. Three others were injured.

I would like to find out from the ministry what the situation is. I would have thought these lines would have been better marked and deeper, and that the Ministry of Agriculture and Food would have had some guidelines it could demand be met with respect to those lines.

The rumour in the local area is that there is a line only about eight inches below the soil. I suspect that rumour has been slightly embellished with the telling since the tragic accident occurred, but the claim is that one can dig to them easily with a shovel.

I question whether this practice should ever have been allowed on agricultural land. Surely there must be some federal or provincial legislation to deal with the problem. If there is not, there should be. If there are other situations in that area where pipelines are within easy striking distance of equipment, particularly of production equipment such as ploughs, subsoilers and chisel ploughs, those situations should be corrected immediately.

It is fine to say the existing land owner will be familiar with those things, but when farms change hands the facts are all too often forgotten. Even though the pipeline may be marked in some manner, I wonder whether we know how close to the ground some of the lines are.

There is a report in the area that one farmer signed an agreement with the installers at the time a line was put in. He demanded it be put down five feet. He was away at the time the thing was put in and went back and checked. It had not been put down the required distance and he demanded the installers come back and redo that portion of the line. If such rumours are true, one wonders how many of the pipelines through that area are much too close to the surface.

The other area of current interest is the spills bill, which is part IX of the Environmental Protection Act. I am sure we will talk more about it later. The minister seems pleased that the farmers can rest on the assurance that everything will be looked after with respect to liability if a spill occurs.

9:50 p.m.

I will take a minute and read a couple of comments. The minister's statement in the Legislature says: "Similarly, farmers who have placed their insurance with the 51 farm mutuals in Ontario are now covered for accidental pollution claims and have enjoyed that protection for years. The farm mutuals will be able to insure their sudden and accidental insurance risk with the insurance pool." It goes on in the next sentence to say "unlike others" and so on.

A few days before that presentation was made, one of the 51 or 52 farm mutual insurance companies wrote a letter. The paragraph reads: "I wish to address your inquiry regarding insurance of environmental impairment liability. At present, the farm mutuals in Ontario exclude liability imposed upon our insured in respect to environmental contamination or pollution arising out of the negligence of our insured. However, this exclusion will cover emission, release, discharge, dispersal or escape if caused by accident in so far as our insured is concerned, providing

our insured can provide proof of the accidental nature."

I hope the minister is sure the farmers are covered. In the past, if the farmer could prove it was an accident, he was covered. If he could not prove it was an accident and there was any negligence at all on his part, he was not covered. I trust that will be checked. It is my indication from phone calls as recently as a few days ago that no changes have been made.

It is of considerable concern to me. Along with many other farmers in my area, I use 28 per cent liquid nitrogen and we will be buying that product very soon. We take orders. I suspect this year we will become the owners f.o.b. the plant at Port Maitland. If those trucks are in an accident in Hamilton, we will be the proud owners of some spilled nitrogen. At present, I am not at all clear on my liability position in that situation. I trust that will be sorted out in the near future.

I thought we might have had some statement tonight about the future of the OMAFNews. That has not been forthcoming, but we can talk about it at some later point. The minister was very upset with that publication previously and I suspect his opinions have not changed much.

It is interesting to see the releases that have been coming out in the last three months or so. There have been quite a number of them. I have them all here. A surprising number of farmers who did not get them before are getting them now. They wondered what they were. I suppose they are now on the OMAFNews mailing list. There seems to be a wider circulation, for whatever reason.

It is also interesting that I am not on the mailing list. I have not received one OMAFNews release since the government switched over. Do any of the members get the OMAFNews release?

Mr. Villeneuve: Are you in the dark?

Mr. Ramsay: I thought we all had them hand delivered.

Mr. Barlow: You get them when you are part of the accord.

Mr. Stevenson: One thing for sure is that I have not received one. Some of them come to my house. I do not know whether they all come. However, they are not being sent to my office, or if they are we have a terrible postal delay.

Mr. McNeil: You have been moving around a lot.

Mr. Stevenson: Yes, I have been moving.

Mr. Gordon: Do you have your postal code on it?

Mr. Stevenson: Nobody seems to want to have an office beside me. I have to keep moving. I do not think it is the toothpaste I am using.

I am sure all the members received their telephone books recently. I did. I got five new government telephone books delivered to the office by hand. Then three days later Priority Post brought one more from the Minister of Government Services (Ms. Caplan). I do not know what it cost the Management Board of Cabinet to send the telephone book to me.

Mr. Gordon: It cost \$1.04.

Mr. Stevenson: I am pleased it arrived with such haste after five others had been already delivered.

Mr. G. I. Miller: We will have to refine some of these fine points. It takes a little while.

Mr. Stevenson: There is another concern, not of the same budgetary significance, but still significant for the people involved in the farm vacation program. It is their understanding the Ministry of Tourism and Recreation is cutting the money available to publicize that program. I am not sure whether the minister is aware of that, but the word is out in the industry.

I hope the minister will look at that. It is a program that has been well received in some areas. I would hate to see that program weakened at a time of growing urban population and decreasing farm population. It is one aspect of trying to get a largely urban people more familiar with what a farm is all about. It would be unfortunate.

The grain financial protection program is of considerable interest at the moment. Most elevators are operating without their licences. They are operating as deemed to be licensed or whatever. They are operating under some letter of credit. Knowing what happened last year, I am concerned it will lead to some problems, particularly if the letter of credit runs out or something happens in the meantime before the operation finally receives its licence.

I noticed in the minister's text that the new regulations talk about "in the future." In the future new regulations would come forward in the financial protection area for grains, referring to option contracts and other noncash methods of selling grain. I thought those would have been out by now with the amount of chatter that came from the Liberal Party on that issue.

The minister talks about not being all talk and about having some action. With the amount of talk the Liberal Party put into that, it could have written those regulations by now if it had sat down to do it. I wonder where they are and how

long it will be before they are available for the industry to consider.

10 p.m.

In the vegetable protection area, I understand there is a processor who has been operating with no licence and some farmers have not been paid. I wonder what the situation is there.

I believe the last item I am going to mention—hell no, I have not even started here yet, have I? God, I have more pages than I thought. I am just getting nicely warmed up here.

The last area of concern in this list does not really apply in this ministry, but it is a concern of which it must be slightly aware, and that is the assessment of farm land when it goes through reassessment under market value assessment. That has happened in a number of municipalities, not only the initial one but at least one reassessment. In some municipalities there have already been two.

In general in my area those reassessments have gone relatively smoothly, let us put it that way. There have always been some appeals and concerns, but there has not been a major uproar in any of the municipalities until this past year.

We had a number of property owners, in particular farmers, who were extremely upset with the nature of the increases in their assessment in a period when they felt farm land was either stable or decreasing in value. One farmer fought his assessment and got an adjournment at the appeal. They were asked to go out and reassess his farm. At all previous assessments it had been stated he had 140-some acres of number one land. At the time of the reassessment it was dropped to 17.

That information is now all over that municipality, as one might expect, and it really has caused great concern in that area as to how fair this whole assessment process is and whether it has been done in a very fair way at all. Have the assessors ever set foot on a lot of these farms or do they just drive down the road and look at the front two fields and think to say this farm is a—

Mr. Ramsay: Mr. Chairman, on a point of order: This topic has nothing to do with this ministry. I am just wondering why it has been brought up at this time. The Ministry of Revenue handles assessments.

Mr. Stevenson: I agree. I said it had nothing in particular to do with this ministry, but if it happens in any more than one municipality this minister is going to be hearing about it, just because of the uproar from the agricultural community.

Mr. Chairman: In the leadoffs by the opposition critics I think there is a tradition of a very wide-ranging debate on anything that touches on, in this case, the farm community and I think this does; so I would think Mr. Stevenson is in order.

Mr. Stevenson: Thank you, Mr. Chairman. I felt your judgement would come down in that way and that is why I proceeded.

Mr. G. I. Miller: That is a good going, Mr. Chairman. It is a concern all over Ontario.

Mr. Stevenson: The last comments I will make will bring us near closing time. I will quit then so the New Democratic Party critic can have a fresh start tomorrow. I will make some comments on what was not in the budget or in the minister's opening statement.

In the Liberal Party agricultural policy so proudly announced last spring, there were 22 items. A number of them would have been easy and quick to implement. The beginning farmer assistance program was to be expanded to cover private mortgage loans and the present criteria will be changed to include farm children who rent land but are currently excluded.

I am wondering why that was not brought in. Granted, it might take a little time to come up with a program that would look carefully at those private mortgages but it could be done relatively easily.

The capital loans program, which was another plank in the platform, could have been quickly implemented. At a time when commodity prices are very low and the physical structures of farms around the province are decaying because there is not the money in most farm operations to keep the structure in proper condition, that type of program would have been useful.

Tile drainage loans increased to cover 75 per cent of the work: that has been discussed by the minister and the present Treasurer in the past and a stroke of the pen would have solved that problem instantly.

Another plank in the platform was the expanded market for farm products, various storage facilities, processing plants and so on, but the Board of Industrial Leadership and Development program has been killed. I did not expect the government to fund that program under the same name but with the tremendous success that program has had, I expected it would have been continued in some form or other.

Another plank: they were going to amend the crop insurance program to allow the establishment of an insurance scheme whereby those farmers who have crops planted on several

parcels of land could buy separate coverage for each parcel. I would be interested to know when the minister is going to move on that issue.

They were going to undertake an aggressive hay marketing program to develop fully the export potential of the product. Initial funding could easily have been made available.

On the topic of the alcohol-gasoline blend to replace leaded fuel, it would have been timely to put some seed money into that program right now. Last week, the federal minister announced that lead would have to be removed from gasoline in this country by the mid-1990s, although somebody may correct me on that.

10:10 p.m.

The federal government is taking a favourable view of the alcohol-gasoline blends produced from agricultural products, particularly corn. I believe a staff person from the Department of Regional Industrial Expansion recently presented a paper which clearly outlined what having those plants producing alcohol from agricultural commodities in this country would mean to the economy of Canada, to the agricultural industry, and as far as new jobs are concerned. There is a considerable spinoff. If the federal government is looking as positively on it as rumours have it, a statement from this government would have been very timely at this point.

I will not talk about tobacco tax at this moment. I will save that until later.

The minister was going to support the continuation of the Grey-Bruce financial distress board and recommend its expansion across the province. That would have been rather easy to implement. I wonder what the minister's position is on that and how soon we will see these financial distress boards across Ontario. I read into it that they would be on some sort of regional basis. We would like his current thinking on that issue.

The last thing is the study of the future of the industry that was done by the Ontario Pork Producers' Marketing Board. I suspect the

statement in here on pork marketing is a result of the requests from that study. The board was expecting some action from the ministry while I was there, and I would like your comments as to whether that is the response and if some other response to that study is likely as well.

That is probably enough for my initial comments. To summarize, the finance and marketing area is of greatest concern for producers in Ontario and is likely to continue to be for some time. I feel that some of the previous programs brought forward by the two senior levels of government will have to be reviewed in the light of changes that have occurred in the international marketplace in the last few months. I hope the ministry will be able to come up with some imaginative new programs to assist the farmers of Ontario while keeping away from the countervail action and various activities such as that of other governments.

There is a significant list of other concerns out there. I have touched on a few of them and we will discuss more as we go through the process here.

Mr. Chairman: Thank you, Mr. Stevenson. Mr. Ramsay, do you wish to commence? I would remind you that we anticipate the bells will begin in about three minutes, at which point we will adjourn and begin tomorrow morning.

Mr. Ramsay: The fresh-start scenario suggested by my colleague would be the best bet. Tomorrow morning would be a good time to start.

Mr. Chairman: Is there a consensus in the committee that we should write off three minutes and adjourn until tomorrow morning at 10 o'clock?

Mr. Villeneuve: Why not?

Mr. Stevenson: Yes, I am sure we could arrange that.

Mr. Chairman: We stand adjourned until tomorrow morning at 10 o'clock.

The committee adjourned at 10:15 p.m.

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No. R-14

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Estimates, Ministry of Agriculture and Food

First Session, 33rd Parliament
Wednesday, November 6, 1985

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, November 6, 1985

The committee met at 10:15 a.m. in room 228.

ESTIMATES, MINISTRY OF AGRICULTURE AND FOOD (continued)

Mr. Chairman: The committee will come to order and we will continue our examination of the estimates of the Ministry of Agriculture and Food.

Last night we heard opening statements from the minister and from the official opposition, and I assume now that the member for Timiskaming (Mr. Ramsay) is prepared to go ahead with his leadoff. We will adjourn at 12:30 p.m.

Hon. Mr. Riddell: Before the member starts, I want to express my apologies for being late. Cabinet is on today and there were two very important items I wanted to get through cabinet, one of which you will hear about shortly. I was given the leeway to bring these matters to cabinet first thing this morning and everything is going well, so it was an exercise that was well worth while.

Mr. Chairman: Feel free to break the news here.

Mr. Ramsay: I was going to say, "Does the minister wish to make a statement?" There is a wonderful platform for him here this morning, but it appears not. We are anxiously awaiting any news you have in the agricultural area.

This is my first time as agriculture critic for my party and the first time in the Legislature I have had the opportunity to address the estimates of this ministry. Before beginning in earnest, I will tell you how I feel about this whole topic and a little bit about where I come from. That will perhaps explain why I am taking this approach today.

10:20 a.m.

Related to that, I will explain the passion of my outburst last night when the member for Durham-York (Mr. Stevenson) was talking about his accomplishments and those of the previous minister. Deep inside me was welling up the frustration I had felt as a farmer over the last two or three years.

I am not like some of the farmers in the Legislature who are very well established. I certainly have nothing against them; they have

been in farming for many years and in some cases maybe inherited a farm from their parents or even grandparents.

I was one of those people who got into farming in the last 15 years and started on a very small level, gradually getting a little larger. It is that category of farmer that is hurting very badly today and that is part of the problem with the agricultural industry: there is such a diversity of conditions out there in the farm community.

We have people with 100 per cent equity. There is a lot of equity in some of the farms. In the ministry, or as agriculture critics, we get different stories. That is part of the problem. There is no unity in the farm community because everyone suffers from very different circumstances.

Part of the frustration I expressed last night has been continuing for the last couple of days and it is unrelated to agriculture; it has to do with this so-called blob of pollution in the St. Clair River.

When the ex-minister who was in charge of that gets up and starts railing against a government that has been in office for only five or six months on something that I feel the previous government knew about, it is very frustrating to hold back one's anger. I consider that situation to be the blob that Brandt built. It is very frustrating because it is one of the reasons I got into this business; I am very concerned about our environment.

This comes from the present minister. This is a quotation of a quotation. The minister quoted this statement last year in estimates. On October 31, 1984, in the afternoon sitting, the agriculture critic for the Liberal Party, now the minister, quoted a statement that had appeared after an Ontario Federation of Agriculture convention in November 1983. It relates to part of the time that the member for Durham-York was talking about and it is a frustration I still feel today.

I was one of the people who voted for this resolution, as I was a member of the OFA, and still am, and was a delegate to that convention. It refers to the lack of government assistance at that time in the farming community. I would like to reiterate the last part of that statement, quoted by the present minister last year. With reference to the lack of government help, the statement says:

"We can no longer accept that. There are too many farmers who increasingly are seeing their financial returns deteriorating. There is too much suffering, humiliation and desperation among our producers. Government has a responsibility to be a safety net in our society. We had expected at least to hear some solid statements of intent and even possibly some answers over the last few days. They have not been forthcoming. We are disappointed and angry. We need and want answers now. The time for complacency is past."

Many farmers out there still feel that frustration and many who were at that convention are no longer in the business. That is the tragedy of rural Ontario right now. I could stay here for hours and rant and rail about the accomplishments not even attempted by the previous regime in agriculture. I do not want to do that. I want to take a more positive note and talk about what this minister has done and what he is attempting to do. I hope to help and guide him on some of the things I think are necessary.

The statement made by the minister last night was refreshing because it was not just a rehash of past accomplishments. There were some accomplishments mentioned, and deservedly so, because the impression in the farm community is that this is a minister who is really concerned and who, within the first few months, actually started to do something. That is a bit of a shock to people out there who are used to agriculture ministers not doing anything at all.

The farm community is very pleased with the minister's enthusiasm. I encourage that and welcome enthusiasm. I do not envy the minister; he probably has one of the toughest jobs in government. He is dealing with a sector of the economy that is in real difficulty. I wish you luck and continuing success.

I have another thing I would like to say which tells you where I come from and why. As I said before, I take a more emotional approach to this because I feel it myself, and I see it in my neighbours. Our area, Timiskaming, is a little more vulnerable because we are a developing farm area. Many of the farmers in my area have developed their farms in the last 15 years with land clearing and tile drainage. In retrospect, it appears it was not the time to do such development. We are now in a period of excess capacity of land and production, and this is hurting the people who still have not paid off the debts that resulted from expanding their properties. We are in great difficulty there. I would like to address that later.

I attribute part of the blame to government policy. Any type of policy that encourages movement in any direction is incorrect. It would be better to have policies in place which allow the farmer to run his own business, farm his farm the way he sees fit, and not set the direction by saying, for example, "Here is a grant to clear land," or "Here is a grant to tile your land." What we need is to ensure an inflow of capital, but the way it should be done is not through grants and subsidies. Because we have a difficult problem in agriculture, we need help in low-cost financing at the moment. It is not the ultimate answer, but I will talk about that later. We have to address the problem of overproduction. That is probably the number one issue. How we address that will be the greatest challenge to agriculture in the years to come.

For the time being we have to be able to get financing under control. Permanent, long-term, fixed-interest financing is the way we have to go. It is still a temporary solution, but it will help. If we do this, the farmer then can farm his own farm, manage it the way he sees fit, and if in his eyes the way to increase productivity is to buy a new tractor then so be it, he would be free to do that with his financing.

He would not always have a government carrot hanging in front of him saying, "This is the way we think you should go." That should be the policy of the future. As businessmen, farmers are becoming more efficient and aware of managerial skills. The farmer of the future will want and need to be able to have self-determination on his own farm. With that, too, he will have the responsibility. He will no longer have anybody to blame but himself.

In relating some of my frustration, I would like to make a short statement on some of the individual points I am concerned about in agriculture today. I want to express some of the feelings I have about what is going on there. Not only farming but also the whole rural way of life in Ontario is important to our province.

Our world was built by men and women who were resourceful and independent. They were driven to develop their farms and prosper by the work of their hands. It is this work ethic which is being destroyed today. The minister knows farmers are hard-working people—he is one himself—but they have not enjoyed the rewards that hard work should supposedly give. That is the total frustration in the community today. They are hard-working people.

We farmers have made mistakes. When the money was available, maybe we took it a little

too easily and the banks were easily able to give it to us. Again, some government programs encouraged us to spend. We are all to blame in this. There is no single party to pick out. The work ethic is being destroyed. It was an ethic where all the families shared in the work of the farm, its joys and sorrows, its triumphs and disasters.

10:30 a.m.

In rural Ontario there is a unity of family life and a sense of common purpose that we do not see in the urban setting. It is difficult to maintain that today, whether in an urban or rural setting. It is something that has to be preserved. The rural life of Ontario is the foundation of our province. It is worth preserving; it is the key to our prosperity.

If you remember, during question period yesterday a question was raised about the Massey-Ferguson layoffs. Again, the anger welled up. If the farmers were doing well, Massey-Ferguson would be doing well; the whole economy would be doing well. It would trickle down or trickle up, whichever way you want to say it, if the farmers were doing well. The farmer is not the type of person who puts money in the bank, if he has it. He wants to improve his way of life. He will improve his efficiency and he will do that by spending money. He always turns the money over. As you know, that is how an economy develops, by money turning over.

If the farm sector is healthy, we are all doing very well, and we have the people in our cities working. It is important to remember that. We have to get on an even keel in our rural community to have the whole economy of this province prosper.

I tried to look back to see where we went wrong, because there have been mistakes. They somehow relate to the family unit; somehow the values got changed. As an industry, agriculture has been the most efficient economic sector in the world in the past century. If one looks at the evolution of the office, up to five years ago the office was a 19th-century institution, whereas farming at the beginning of this century became a 20th-century institution; it grew with it and was very efficient.

Somehow this striving for efficiency has cost us greatly; it has been at the expense of community values. I do not want to be accused of being a Luddite, of being anti-technology and anti-machinery. The Luddites went around a couple of centuries ago, at the beginning of the industrial revolution, and started smashing machines since they thought they would be the end of us all. We have done very well with

machinery. It has made our life very satisfying, it has given us more leisure time; but somehow our love affair with technology is partly to blame for our dilemma.

We are undergoing a revolution in agriculture. It started as a feudal system and then went into an industrial system. Now we see the beginning of cybernated food production. On the horizon we see computers, remote-control cultivators, television monitors, sensors and data banks, all of which can now run a farm. I use the word "run," because looking into the future, the way I see it, we are not going to be seeing people farm; we will see a few telefarm operators who will be able to feed millions of people.

I want to look to the future, but frankly it scares the hell out of me when I think where we are going with this. How many farmers will we need? I suppose we will get to the point where there will be only a few left, and that is the way it is going to be. It is sad for me to see that, because besides being a sector of the economy, agriculture is a vital part of our province. In a sense, maybe I am a true conservative and want to see it remain; I want to conserve that part of rural Ontario.

There are many reasons why we have got into this trouble. Partly it is because of what I have said, that somehow we have removed the human values from production. When we do that, I wonder whether we will be able to keep the human values at the consumption end very much longer. We see that changing too, with plastic food coming along. That seems to be a developing trend; it is like a snowball rolling down a hill.

Let me say what I think we should be doing. We should be striving for a sustainable agricultural system rather than a merely profitable one. We have to start to look at replacing the short-term goals of productivity and competitiveness with a goal such as fair economic return for farmers.

We have to see a resurgence of the family farm. We are going to do that with soil conservation and the strengthening of our rural communities. We have to ensure there will be a secure food supply for the future; not for the world but rather for this province. We have to become self-sufficient in this province. This is going to help our balance of payments. I will address that issue later.

We have to begin to serve our local markets. This is clear when we start to rationalize about our food distribution system. It is frustrating because it is very easy to see from where I come

from in the north this lack of rationalization in the marketing system we have.

We have local sales barns, as do all the rural communities. The cattle and hogs are gathered up and shipped to the Toronto stockyards where we sell and distribute them to the packing plants. They go to the Toronto packing plants or Kitchener, especially if it is pork. The livestock is processed into the different commodities and products that the consumer wants today. It is then gathered up by a chain store system, comes back to Toronto and is distributed. From there it goes back up the road—back up Highway 11 again—to our area.

It is no wonder food costs so much. There is a perception that food costs are high; however, the farmer does not get a fair return. The way we handle it is illogical. Why should we be sending a finished steer 300 miles down the road? I suppose the steers must be happy. They get a free rail trip down south and back again. However, they may not be returning in the form they would like. It is a free trip for the steer, but the consumer pays for it.

We are producing wonderful beef in the north. We are self-sufficient in beef and also in dairy products. However, this stuff is being shipped all over and processed. The distance of the dairies from the farm is another problem I will talk about later, along with marketing and distribution. Who is paying for it? The consumer is paying for it and the farmer is blamed.

However, it is this lack of rationalization of the marketing system that is causing a lot of the problems. The squeeze and the pressure are on the farmer to keep the cost down. The costs are escalating, but it is at the other end. People do not want to pay any more for food. We are not getting a fair return for the cost of food today.

That is another point. I said something during question period in June which made everyone in my caucus look back at me and say, "You cannot say that." I said food is too cheap in this province. That is the truth. We pay the second lowest price for food in the world, next to the United States. The amount varies, but the figure usually mentioned is about 16 per cent of disposable income.

I will tell a little anecdote, if you will allow me. I remember travelling in Europe in 1972 when I did not have very much money. There was a bakery just outside Vatican City in Rome. We needed to get some bread and we had not been able to get to the bank. We were buying the bread, and they were weighing it. Of course, it was weighed in metric, which was strange to me.

The woman said the loaf would be a certain price. She said, "We can cut that in half because people just buy chunks of bread." They cut it in half. We bought that and we were quite happy.

I compare that to the way we go to our suburban shopping centres and fill up the station wagon with brown bags of food and big containers of juice. We do not know how lucky we are in this country. I wish everyone had a chance to travel and see the other countries of the world. They would then realize how well off we are, even though we rant and rave and want improvements. We are doing all right as a country and we forget that.

10:40 a.m.

If, for example, the price of corn doubled, the price of a box of cornflakes would go up by 10 cents. When you talk about the price of food, you must look at where the money goes from the price of the food when it finally gets to the table. It is not going to the farmer. That is part of the tragedy. Part of that is the real lack of rationalization.

I do not know where we are going. Because we have a free market system, it is up to Dominion and Loblaws to do as they see fit. But it is not working on behalf of the farmer, although I am not really sure what the answer is there. Perhaps we should get into some sort of price control on commodities such as milk, as other provinces have done in this country. I do not know, but maybe that is something we are going to have to look at. There has to be an answer.

We must also continue to accelerate our import replacement program. We talk about trade and the imbalance of trade, but this is something we have really lost ground on. I think it is something we have got to put more effort into, because we cannot grow many of the crops that are grown elsewhere in the world; although there are many things we do grow, and grow very well in this temperate climate.

I think there is something else we have to understand, and that is why we fight so diligently to try to preserve the food land of Niagara. We have unique resources there and we can grow wonderful produce, especially our soft fruits, which are probably some of the best in the world because they grow best in a temperate climate.

I do not want in the future to have to eat peaches from Georgia. I want to be eating Ontario peaches. Tomatoes and other soft fruits are things that we grow very well. Yet we seem to be losing our capacity to compete in the canning and the fresh frozen fruit industries. We still bring in strawberries from Mexico, and yet we

can grow the best strawberries in the world here. Why are we not replacing this totally?

We have to look at some of these things as well as some of the specialty markets, plus those markets where imports are coming in; perhaps we can provide new opportunities for our farmers. I would ask the minister to look seriously at this. I think some of these suggestions would be first steps towards sustainable agriculture, and that is something we are going to have to look at.

In order to develop policy for the future, I wish the province could send out our deputy minister and the assistant deputy ministers who are here today. I wish we had the time to send them out for just a few weeks. I would actually like to send them out for a few years, but we will still keep them on the payroll.

What I am really getting at is that I feel a sense of guilt at being too cloistered in this room. Last night I had a wonderful dinner with a colleague, and then we returned here. We are in this stratified atmosphere, and sometimes we can get isolated from real problems. I would like to have the opportunity to send our deputies and ADMs out to the country to spend some time with the farmers so they could talk to them directly, along with the farm workers.

I wish they had the time maybe to take up a piece of land and farm it themselves, actually do it for a living for a while. Maybe then they could really understand the quality of rural life. We certainly do not lack for brain power and efficiency. We have a wonderful civil service, and I think it is exemplified also in this ministry. We have good people; there is no doubt about it. I would love to give them a sabbatical and let them turn aside and get out there.

Instead of getting involved with verbal waste, let them get out there and spread some real manure on the land and get their hands dirty. I think that type of first-hand experience would be beneficial.

The care and nurturing of our rural community is a most worthy responsibility. To cherish what remains of it and to foster its renewal is our only legitimate hope. I would hope everybody here will take that last statement for what it is, a desperate plea that we do something. I suppose we have varying opinions of what we should be doing, but I hope in the course of these proceedings that dialogue can be helpful. I appreciate the minister's statement last night that he did not want the hearings dominated by statements, but that he would encourage dialogue. I appreciate that because I hope we can

come up with some answers and I hope we can agree on some of the things we should be doing.

I think it is ironic, but as a new member I really had no idea what we should do when estimates came up. The first thing I did was to take a look at what happened last year. Some of the minister's comments were very interesting when he was a critic.

There is one comment maybe I should repeat, because if I get on the same bandwagon something similar may happen to me. I notice he said he was the critic and he was talking about asking his researcher to make a few points. Referring to research, he said, "The researcher is very apt to become the next Deputy Minister of Agriculture and Food after the next election." He was not far off. He just decided to make his researcher his executive assistant.

I must say the man must have had a crystal ball there. It is wonderful to see. I do not know if I would be so bold and brash as to say the same thing. Being not as good at the crystal ball, maybe I will hold back.

Mr. Chairman: That is a little premature.

Mr. Ramsay: No, I should not. The chairman says it is a little premature. I will hold off on that rashness. There are just a few comments the minister made last year as a critic that I would like to comment on because I think they are very noteworthy.

He said last year, on October 31, "As a farmer, I have the responsibility and worry about next year. As the agriculture critic for my party and the provincial Legislature, I have the responsibility to investigate the problem, to seek solutions and to push for their implementation."

Those are good words. I am happy to see him in a position now where he can work constructively to that end. Again, to quote the minister last year as critic, he said, "The emphasis in these ideas is not to produce quick fixes to entwine together limited view assistance programs here and there, but to reflect an attitude towards ensuring the maintenance and viability of agriculture over the long haul and to reflect the importance of this priority."

I agree thoroughly. That is something I think we have to look at. I hope to address some of what I think are long-term solutions to agriculture. There are some subject areas I think we should address in both the long and short term. If I may, I would like to proceed with those right now.

There is one tool that would help farmers and which can be put to use immediately without great cost. I know it is something the minister is

concerned about and, who knows, maybe it is on the way. That is some kind of right-to-farm legislation.

There has been an ever-growing frustration in the rural community that some farmers have been established for a long time, while there has been, especially in the past 15 years, a movement of people wanting to get back to the land and have a rural experience. Many of those people find when they get there it may not be as idyllic as they first thought.

We get complaints from neighbours of farmers objecting to some of the very traditional and routine jobs of farmers, such as spreading manure or other things that cause noise or create odour. It is usually something in the countryside that we take as a given, but these people find it strange and obnoxious and start to object. It is very difficult for farmers to come back. It is something we are going to have to start to examine.

The number one issue at the moment is some sort of moratorium on debt as a stop-gap measure only. That is a short-term solution to a long-term problem, but I think it is part of the long-term solution. I know it is not the solution, but we are losing farmers every day and we are going to have to do something.

All the farm groups—and I know there is a coming together of eight of the main farm groups of this province, as the minister knows—have said we have to bring back an act which I know is a federal issue, but I would ask the minister if he would push John Wise to get back into federal legislation the Farmers' Creditors Arrangement Act. It worked well in the Depression and we have as desperate a situation today.

10:50 a.m.

I was going through this list. I think you will find many problems can be resolved by the federal government. I would ask our minister, as representing the farmers of Ontario, to be pushing the federal government to get on with it. I think one of his greater challenges will be getting the federal government to do many of the things that need to be done and which it promised to do.

There is a growing frustration out there that the change that occurred last summer has not been a change at all, especially when it comes to farming. It is unfortunate because many promises had been made to farmers. As a farmer myself, I was quite willing to give that government a chance and really was hoping it would do many of the things it had said.

We have to look at some sort of debt review. I know we have had debates whether it is under provincial or federal jurisdiction, but there has to be some sort of stop-gap measure to say: "Whoa, let us hold on. Let us take a look at where we are going. Let us try to reorganize. Let us try to get the parties together so we can look at some of the creative solutions people have been proposing, such as debt set-aside, for instance."

In all this, what bothers farmers is that they have had to take all the risk. I always thought that when one borrowed money it was a partnership and within that partnership the risk should be shared. That is part of the reason the interest rate was set above inflation so that a profit was made on the use of the money and also as insurance in case some of the loans were bad.

What has happened since the late 1960s and the advent of floating interest rate is that we got away from that aspect of the fixed interest rate. The bank no longer shared the risk with the farmer. The farmer had the total risk, especially when money seemed to be at that time, in the early 1970s, sort of flaunted in front of us and made very easy to obtain.

Now the farmer looks at the jackpot that many of us are in and wonders why the bank is not willing to admit any blame at all and not willing to accept some of the possible solutions and their cost. I think debt set-aside is a very noble solution because farmers are proud people. We want to pay what we owe.

We have to get that debt down to a manageable level. We can do that by setting aside the debt. When we do that, we cannot keep accruing interest against it because then we are not gaining anything. That is the whole point. That is where the bank can share in the solution. That is a cost to the bank, but it is something the banks in this country are going to have to face up to and share. I think it is a solution for the bank to get all their principal back, and the farmer wants to pay it back.

It has just become a horrendous burden. I would hope the Ontario ministry would not just say: "That is not in our bailiwick, that is in the federal jurisdiction." I hope the ministry will examine all the different possibilities and solutions on farm financings, then approach the people who can put them into reality.

Your ministry represents all the farmers of this province. No matter what your authority is, we want you to be working on our behalf and going to bat for us. We are behind you and want you to work for us. I would encourage you to do that.

Much has been said about tripartite stabilization. If there ever was an issue where the frustration of farmers is expressed deeply it is this one. Eugene Whelan four or five years ago was promising something was going to happen.

In the last few years it looked to be getting close. Every year it was a case of it coming in on January 1. I do not know how many years Dennis Timbrell said that. It was coming in for sure in 1985. We are now into November. In another month we will be into 1986, and we have no tripartite stabilization.

The minister would have all the farmers in this province behind him if he went to Ottawa and told John Wise to get off his ass. That job needs to be done and I think the minister is the man to do it. There is total disgust with the federal Department of Agriculture.

I know it is supposed to be coming in a couple of days. I have heard that before and if it does not come in, you have to come in with bipartite stabilization to show the farmers of this province that you are going to do it. Something has to happen.

I know it is not the final answer and is only a safety net. You commented last year on stabilization programs and the dangers of what they could do. The danger is the level at which it locks the farmer into his remuneration. We have to be careful. There are many outside forces that prevent a plan that is too rich, but a stabilization plan is going to lock in poverty if we have to live on it. It is a short-term solution.

As I go down my list I am going to come to some of the solutions I think we are going to have to start to address in the long term. We have to get on with tripartite stabilization. We have to get some of these things in right away. We have to look at the long and the short of this problem. It is a two-pronged approach and I think that is the way we have to go about it.

Crop insurance is another area about which I have great concern. As the minister knows, the hail storm that hit my area in July really hurt a small number of the farmers in my area. I was extremely pleased and grateful to see the Ontario Ministry of Agriculture and Food come out with an assistance program to help the farmers of my area.

I realize that took a lot of doing on the ministry's part because interfering with the process where there is a crop insurance program is a very touchy issue. The crops that were damaged in Timiskaming were eligible for coverage under that program. I know it was very difficult for OMAF to make the decision it did.

The farmers of my area are very appreciative of what you have done.

I go around defending the assistance you gave. I know that \$25 an acre looks like a pittance, but I feel the symbolism is very strong; you wanted to help. I also feel it is a good signal to the federal government that the province considered this to be an extraordinary disaster. Now the door is open for them to contribute to the situation. I welcome the move and also the ammunition it gives the farmers of my area to go after the federal government to obtain matching or greater assistance.

I spoke about rationalizing the market and we talked about some of the meat in my area that goes up and down the road. Another thing, and I do not know how we get to it, is rationalizing the milk-processing industry. I do not know what the figure is today for companies such as Ault Foods, which is owned by Labatt. I know it owns more than 51 per cent of the dairy processing in this province.

Dairies seem to be getting farther and farther apart. The raw product milk is being transported miles and miles more than it used to be. It is more than just what is happening with the farmer's transportation costs; there is the breakup of the rural community, of the small town or hamlet with the creamery and the blacksmith. They were easily accessible, and now that is dwindling. We are seeing the agricultural secondary industry leaving the rural community. That is another problem. Now that we need jobs those jobs are not around. They are all going to the main centres. It has ramifications in many aspects of the rural economy.

11 p.m.

There is a program that OMAF has had over the past few years that was very successful, the agricultural and rural development agreement program, which is being phased out. In this phasing out the ARDA program there are problems of farmers sometimes having leases of land valued at rates appraised 10 to 15 years ago.

They are paying a percentage rent that is way above the market price for the land. They are having great difficulty either carrying those rents or buying the land from the ministry, which would like to dispose of it. There is a problem. I am not sure whether the ministry might be able to write down some of the costs of that so the land could go to the farmers who are renting it at a fair market cost. I ask you to look into that.

I would like to reserve another time during these estimates to get into more detail about the Drainage Act. Of all the agricultural issues from

across the province that cross my desk, my biggest case load of agricultural constituency work involves the Drainage Act.

In principle, the Drainage Act is a good document. As farmers we need drainage and there has to be a mechanism to bring drainage to rural Ontario. The Drainage Act has been fairly successful, but in the light of the realities of overcapacity we may have to take a look at the Drainage Act and not necessarily view the land mass of Ontario as having to be totally drained. We have areas that are and perhaps should remain wet.

Perhaps there should be some assistance involving wetlands, such as the farm tax reduction program, because we need to preserve them. As our agriculture gets more intensive we do not need more acreage to produce food. We could start preserving some wetlands for recreational activity. We need wetlands as a good breeding spot for some of the wildlife in our province as well as for keeping ecology on stream and maintaining the watertable. We are going to have to look at that. Not every darned piece of land in this province has to be drained.

The main problem with the Drainage Act is that in some people's minds it violates their property rights when they have a piece of property and feel they should be able to use it for whatever they want. All of a sudden they are assessed a lump sum by the municipality because a neighbour or somebody a mile or two upstream or downstream requires drainage.

Another problem is the microdrainage area, the definition of the area requiring drainage and the people it brings into the system and into the assessment for the drainage area. That is the biggest complaint I get. I do not know whether we could restrict the assessments to the people who require the drainage and not have it also apply to those who might receive an increase in value from it.

The argument is that their land value is increased; but sometimes it is a little old lady who has the piece of land. Perhaps it is cleared or has bush on it. All of a sudden she has this assessment and the rationale is, "The value of the property has increased."

But perhaps that person is on a fixed income or has a job in town. As far as they are concerned they have their piece of property for their own personal enjoyment and are not even farming it. All of a sudden they are hit with that.

There must be some mechanism to restrict the drainage area or even to put some sort of lien on the property. If the property down the road is sold

and it is determined the drainage project has enhanced its value, perhaps the time we should be looking at paying the municipality the so-called portion of the cost of that project is when that profit has been accrued, when a person has the money and has seen the benefit of the improvement. I would welcome an opportunity to have Mr. Spencer here at another time so we could talk about the Drainage Act a little more fully.

The next thing I want to address is overproduction, which I think is the real dilemma in agriculture today. The real crime in the world today that is hurting us and people in the Third World is that although we can grow enough food to feed the world we grow too much for the people who can afford it. There is no rational system of worldwide food distribution. I am not going to propose some utopian solution to that. I do not know the solution. Everybody has a different philosophical viewpoint as to whether we should be looking at self-sufficiency for Third World countries or using the resources we have here to feed them.

We have heard of many success stories. Part of the problem may be that some of the Third World countries we helped with the green revolution in the last 30 years, such as India, occasionally export. Perhaps we cannot look at it globally but must look at it in a national or provincial setting. We have overproduction. Because of the way the market works, when there is overproduction the price is not there. The lack of price is the real problem. Farmers would love to get the proper price for their product and not have to go on their knees to the government and say, "I want a grant and I want this and that." They would rather not, because it goes against their nature as independent beings and as people who believe in self-reliance and self-sufficiency. We do not want handouts from the government. We would like the proper price for our product. That has to be the first goal.

I think every farm group in this country would agree with that. A few years ago we were still saying: "What is the most important thing we need? Is it long-term financing? Is it price? Is it this or that?" Today we have come a long way because the crisis has deepened. It has sharpened our minds and our pencils.

We all realize that product price has to be the answer. If we could get a 1985 price for our product, as some commodities do because of the situation they are in, we could handle the ups and downs of interest rates or the continually escalating costs of fertilizer and all the inputs. I

will address that a little more fully. My colleague sat here last night and talked about the low cost and the high input costs. That is what it is. However, what do we do about it? What is the answer to the low value of the things we produce?

I suggest we are going to have to look very seriously at supply management. If we look at the commodities that are doing better than some of the others—they are not all doing well—they are the groups that have grappled with the problem of overproduction. The milk industry saw that in the 1960s. In those days you could go up to the door of the dairy with your wagon and cans of milk and the dairy would say: "Fred, I do not need the milk this week. We will give you so much for it." There was all that hard work and that was the situation.

With great inner turmoil, the dairy farmers were able to grasp the situation and come up with a solution. It was not perfect because we are human beings and nothing is perfect, but now they have the Ontario Milk Marketing Board. It is able to control production and set price.

11:10 a.m.

I see that as the answer. I would love to say that I could go out and produce this and that and always get a fair return. That would be nice. I wish the free market system in food would work. It works for many other commodities in other sectors of the economy, but it does not seem to work for agriculture.

The answer is voluntary supply management by the different commodity groups. We have to ensure the legislation is there so that the commodity groups can enter into that. As leaders, we are going to have to see whether this is the answer and perhaps start to talk to people about it. As leaders, we are going to have to work to try to save the agricultural community and the rural community of Ontario. I see it as a possible answer. Many of the groups now seem to be coalescing on this as an answer.

I just received a press release the National Farmers Union put out on Thursday, October 24, in regard to their lobbying of John Wise, federal cabinet ministers and members of Parliament from all three parties in Ottawa.

Their presentation centred on three points. The first was that the "Farm Credit Corp. debt moratorium be extended to all the lending institutions." I have discussed that. The second was that the "general debt moratorium remain in place until such time as the government implements the Farmers' Creditors Arrangement Act." I have also mentioned that today. The third is that the "government begin the steps required to bring

all agricultural commodities within an orderly marketing supply management market system."

I am glad to see a major group in this country coming out and saying that. The National Farmers Union has been a leader with some of the newer ideas. I think that is going to percolate through the rural community.

The point they make, which is what I am trying to get at about the self-sufficiency business, is that in regard to these three points they say that when number 3 becomes a reality the first two will no longer be necessary.

That is the point. Once we get some sort of supply management, however we do it, so that we can get a fair return, we will not need all the other programs. All those guys might be out of a job because all those programs would not have to be administered. We would not need all the Band-Aids that we slap on the industry. We could be looking at some of the finer points of this industry instead of trying to find solutions for the main problems.

There is something else that concerns me. I know the minister talked about it before when he was opposition critic. I guess it relates to everything I have talked about. We need an overall agricultural strategy. In this country or province, we do not seem to have a plan of what agriculture is about, what we want it to be about or where we want it to go as an industry in this province. It is important because it is a big part of this province. It is not a peripheral industry we can ignore. It is very important.

It is reflected in the Massey-Ferguson layoffs. It is part of the life blood of this province, relating to industrial jobs and many other sectors of the economy. We have to sit down and decide where we are going and what we want to do. Until we do that we are going to continue slapping these Band-Aids on the situation, but the wound is still festering and in this industry we are all still bleeding from that wound.

We have to start to look at a plan and a strategy, because with that we will be able to sew the wound up. It would give us time to heal. That is what we have to look at in the long term.

I said it is a two-way street, but the long term and short term is long-term debt, something that I know you addressed. I must congratulate you, your ministry and your government for addressing this issue as soon as you did after coming to power through your Ontario family farm interest rate reduction program.

Some farmers in my area are saying, "It is only for a year." I was in the awkward situation of having to defend a program that a government of

another political stripe brought in, but I did. I said, "Did you want the minister to say, 'There is a problem and we will strike a committee to take a look at the situation and wait until the committee reports'?" I said, "There is \$50 million here and you had better get down to the Ministry of Agriculture and Food office and get an application and see how the program can help you."

I am encouraging farmers in my area, and I would hope all members of this Legislature would encourage farmers and tell them of this program. I think it is of assistance. Sure, it is only for one year, but I would impress upon the minister that it has been of great assistance to farmers.

I am looking forward to the committee which he struck to look at the situation coming up with something. Whether they are business writers in the different farm papers or regular business papers, or farmers in the community, they realize that an inflow of capital is needed. I suppose the method by which we do that is what we have to debate. Low-cost financing has to be one of the ways we do that.

There are a few question marks on the horizon and one of them is free trade. How we handle that issue is one of the greatest challenges we are going to have in the next couple of years.

From my understanding of the issue and the present state of the agricultural industry, I cannot for the life of me see how agriculture can be put on the table in free trade. With the vulnerability of the industry as it is today I do not see how we are going to compete against the Americans. We cannot compete within our own country in this sector.

The concept of the level playing field the Americans talk about worries me, not only in culture and sovereignty but in industry, and particularly in a sector such as agriculture. What does that mean? Does it mean the traditional assistance we have received from government has to go? We are hardly standing on our feet now. How are we going to compete if we do not have some of the safety nets there?

It concerns me that we do not even have our own house in order. We do not even have free trade within our own country; yet we, as the little mouse, are now starting to approach the elephant to the south of us. Some of us want to be the dancing partner with that elephant. When you are in that situation you have to watch your feet. It concerns me, and the minister is going to have to be very cognizant of that situation and what it is going to do to rural Ontario.

I probably have taken a bit more time than I wanted for an opening statement. I look forward to continuing the estimates where we can get down to specific questions as we come to the various votes. I look forward to speaking to some of the other officials from OMAF at a later date. I appreciate their attendance at these estimates. I also appreciate the minister's attendance and interest and I look forward to the next few weeks.

Mr. Chairman: I assume now the minister will want to respond to the two critics.

Hon. Mr. Riddell: First, I very much appreciate the presentations that were made by the critics from both the Conservative and the New Democratic parties. They probably were two of the best presentations I have heard in my more than 12 years of sitting in committee.

I appreciate very much the manner in which the presentations were made; also the knowledge both critics have regarding the agriculture industry and their concern for the industry at the present time. I share their concern and hope we can work together to address some of the real problems we are facing in the industry, not only in this province but in the country.

I took notes as both critics were speaking. I will try to respond to their questions but I do not profess to have the knowledge my staff has in their areas of expertise. I am going to take the liberty of calling on my staff members to answer some of the questions more specifically. I can probably deal with them in a very general way but I know members would want more specific answers to some of the concerns.

I will start with the Conservative critic's presentation. He made reference to the balkanization of provincial programs. I recognize the impact of various assistance programs by the provinces on interprovincial agricultural trade and production. This problem also was noted by the respected Canada West Foundation's latest report, *The Canadian Common Market*.

The need for a national stabilization program addresses part of the problem. It is not a panacea; we know that.

The Premier (Mr. Peterson) and the Prime Minister will be discussing a national agricultural strategy at the first ministers' conference, which also will examine in broader terms the need to eliminate artificial restraints on trade.

I have no idea who the Premier will be taking to these conferences but if he asked me to accompany him I would be happy to do so. Along with the Premier, we could speak up for the agricultural industry in this country.

The member for Durham-York also referred to the statesmanlike role that Ontario has played. With other provinces neglecting or ignoring their statesmanlike roles and continuing to subsidize their producers, in some places more richly than others, Mr. Stevenson suggested it was probably time Ontario took off its gloves and started subsidizing our producers to a greater extent than it does.

The leadership role taken by the minister and ministry to develop a national tripartite stabilization program is probably the only way to go. We should not continue to compete with the treasuries of other provinces. That is why we have been working diligently trying to get a tripartite program in place so that we could have a level playing field, as you referred to it, for all the farmers throughout the country.

The ministry has supported strongly efforts of the Canadian Pork Council and the Canadian Meat Council to fight and appeal the United States countervail action and to encourage the Canadian Cattlemen's Association to take countervail action against European Community beef imports.

Premier Peterson's recent visit to Washington revealed a stronger provincial emphasis on overall trade issues. The Premier met agricultural spokesmen to indicate our concerns over the directions taken by the United States farm and trade policies.

I probably will have more to say about the tripartite program, but if it is any encouragement I believe that a red meat program will be signed momentarily, if one goes by an article written by Gord Wainman in the London Free Press over the weekend.

Wainman indicated that the federal Minister of Agriculture already had signed an agreement. I hope that is the case. I can state unequivocally that no formal signed agreement has crossed my desk. We have been in touch with Ottawa on a weekly basis urging the federal minister to sign the agreement, realizing there are difficulties from his standpoint.

For various reasons, the provinces are not all prepared to sign a red meat agreement at this time. Some of the provinces feel they need a five-year phase-out or phase-in period, however one wants to look at it. They already have many of their programs based over a period of so many years and say they cannot terminate those programs to participate in the tripartite program. The federal minister has had to take this into consideration because he wants to be as fair as possible to all provinces. He recognizes as well

that there is at least one province which is not interested in any way in a national stabilization program.

Their main interest is in supply management and this came out loud and clear at the ministers' conference which I attended about three weeks after I became the Minister of Agriculture and Food. Mr. Wise, the federal Minister of Agriculture, has not been without his difficulties in trying to get a red meat agreement signed, but I am hoping Mr. Wainman is right. I hope the minister has signed an agreement and it is on its way to the ministers of those provinces that are prepared to sign.

Mr. Ramsay: Do you know if we have retroactivity to January 1?

Hon. Mr. Riddell: We had always considered that as part of the tripartite program. My understanding now is that the federal minister chooses to separate the two items. It may well be we are on the verge of signing a red meat agreement, but we will not know at the time of signing how Mr. Wise intends to apply the retroactive payments.

We have been insisting that he make retroactive payments based on the Agricultural Stabilization Act 90 per cent formula on a quarterly basis, which would mean a much greater payout from the federal government than if it were on a yearly basis. I told Mr. Wise our farmers would accept nothing less than ASA 90 quarterly and we will then bring the remaining amount up to tripartite levels.

We may well be ready to sign the agreement, but I do not think we will know at the time how Mr. Wise intends to apply the ASA 90 program. I am hoping it will be on quarterly basis. If you are talking to Mr. Wise, I urge you to have him strongly consider ASA 90 quarterly.

Mr. Stevenson: Do you want me to break in or leave questions until afterwards? Are you talking about quarterly just for this year or are you talking about quarterly for ever?

Hon. Mr. Riddell: No, I meant quarterly back to January 1, 1985. Mr. Wise has indicated, as we have, there definitely would be retroactive payments on the tripartite program going back to January 1. There would not be a payout for either pork or beef the first quarter because the prices were above what the tripartite would kick in at. There would be a payout in the second, the third and, I would expect, the fourth quarters. Once those payments are made then tripartite would become effective, starting January 1.

Mr. Stevenson: From then on it always will be quarterly?

Hon. Mr. Riddell: I believe that is right, yes.

Henry Ediger is here and he has been working very hard on this. If you want more up-to-date information you could ask him.

Mr. Stevenson: Possibly you should continue with your comments and we will get into greater detail on these various topics at some later point.

11:30 a.m.

Hon. Mr. Riddell: Mr. Stevenson, in his remarks, made reference to imaginative export subsidies. I do not think I need tell Mr. Stevenson, as I know he is well aware, that the United States pork countervail action, which is being appealed, pinpoints a number of domestic subsidies that it considered countervailable. Ontario does not agree with the International Trade Commission decision and is supporting the appeal.

However, export subsidies are allowable under the General Agreement on Tariffs and Trade only for primary agricultural products, not processed food and beverages. Our efforts to enhance value-added production within Ontario would not be assisted by export subsidies. A preferred mechanism is to review current GATT rules and improve them.

Mr. Stevenson referred to financial assistance to producer groups for countervail anti-dumping action. The minister is aware of the financial pressures on producer groups to take action or defend countervail anti-dumping motions. The ministry has provided staff support and is prepared to continue doing so. However, direct financial assistance itself could be construed as countervailable or an inducement to take such actions without a full awareness of probable successes. The revised federal countervail anti-dumping rules provide a tighter and more timely system to handle such actions.

I trust you have the Ontario Ministry of Agriculture and Food brochure, Seed Money for Growing Export Markets.

As I follow along my notes taken as Mr. Stevenson was commenting, I see he referred to Foodland Ontario program enhancement. Although Mr. Stevenson received approval in principle for this program, no funds were provided. This was under review in the \$181 million program review indicated by my government. The government's current corporate advertising policy is under review. When completed, I am sure this worthwhile program will be reconsidered.

In connection with the closing of export offices, I will have to say that the offices in Brussels, and I think in Philadelphia, were

closed, but it does not mean we do not have the same number of staff. There still will be five export development specialists operating in the United States and two of them currently are operating out of New York to service the eastern states.

An excellent person by the name of Neil Gordon—whom I trust you have met—is doing a great job for us out of the United Kingdom office. We feel he can adequately cover Brussels. The officer who was in Philadelphia will now operate out of New York and we feel he can cover that area quite adequately.

In connection with Mr. Stevenson's questioning of our budget figures, with the committee's indulgence I would like to have somebody speak on this who, as I have said, is far more knowledgeable than I am about these matters. That is Rita Burak. Rita, would you like to come up and speak on the budget figures to which Mr. Stevenson referred? He did not seem to think they were matching our budget somehow.

Mrs. Burak: I would like to preface my remarks by saying this was a very unusual year. The normal estimates process has gone through a number of delays. For that reason, I can provide an explanation in chronological order.

The estimates which were tabled by the government, and which the committee has before it, total \$361 million. I would like to clarify program status first, to answer your question, Mr. Stevenson, about whether those programs approved, funded and announced by the former government were included in that figure.

After Management Board minuted the amount in the printed estimates of \$361 million for the ministry in 1985-86, on June 11, the following additional approvals were granted to us. The first amount was \$500,000 for the commercial crop development program. The second amount was \$75,000, for the grape and wine task force. The third amount was \$1.4 million, related to the McKinlay failure. There was also an increase of \$500,000 allowed for loans for the grain protection fund. None of these programs, which were given funding approval, have been cut.

I would like to talk about the programs that have been announced since July 2, 1985. First, the Ontario Family Farm Interest Rate Reduction program was approved by cabinet, costing up to \$50 million. The Management Board, as is often the practice, initially approved a formal expenditure commitment increase, in the relevant vote and item, of \$30 million. There were instructions for the ministry to return to the board for formal

approval of the remaining \$20 million when and as it is needed.

Second, cabinet approved an additional \$5 million for tripartite stabilization. This was done in anticipation of higher costs, understanding how negotiations were moving along.

Third, cabinet approved an additional commitment of \$6 million for the transition fund which was announced in the budget. We have indicated to the Management Board, and to cabinet, that we will only need to flow \$1.3 million in this fiscal year. We will flow the remainder in 1986-87.

In summary, our expenditure commitment level for this fiscal year is approximately \$417 million. This is arrived at by adding the following three items to the \$361 million in the printed estimates: \$50 million for OFFIRR; \$5 million for the additional tripartite stabilization program; \$1.3 million to be flowed in this year from the transition fund.

There are other minor adjustments that have been made to the budget. They will continue to be made until the end of the fiscal year. This is normal budgetary management practice in the government.

In his opening statement to the committee, the minister mentioned that the budget recently tabled by the Treasurer (Mr. Nixon) includes nearly \$400 million for our ministry. This figure is arrived at by adding the ministry's one nonbudgetary amount, \$25 million for tile drainage debentures, to the budgetary figure of \$374 million listed on page 55 of the budget.

I believe Mr. Stevenson also asked whether or not the programs funded under the former Board of Industrial Leadership and Development program had been cut. I can tell you we have recently completed a very extensive review of all BILD programs with the Management Board. We have been given \$10.5 million to handle our outstanding commitments.

We have requested an additional \$1.5 million, in each of five years, for a small food processing program to start in 1986-87. We expect the funding for that program to be determined using the 1986-87 allocation process.

11:40 a.m.

Mr. Stevenson: Can I ask some questions now or do you want to leave that until later?

To me, the confusing numbers are when I start with the \$361 million and I add in the farm operating credit assistance program. I am not sure if it is alive or dead. Is FOCAP part of OFFIRR?

Mrs. Burak: Those are two separate funds, two separate cost centres. The funding for FOCAP is in the printed estimates at \$9.8 million. On June 11, 1985, we requested an additional \$3.3 million to bring it up to \$14 million and were not granted that increase. I am optimistic, however, that when we return to the board we will get it.

Mr. Stevenson: The interest rate assistance funds coming through OFFIRR are on top of the interest rate assistance funds in that portion of FOCAP?

Mrs. Burak: That is right; yes.

Mr. Stevenson: That is written in here as \$9.8 million instead of \$14 million?

Mrs. Burak: That is correct, because when the estimates were approved we were only given approval for \$9.8 million.

Mr. Stevenson: They thought the takeup in the first year would be less, or was that just a decision of cabinet?

Mrs. Burak: That was a decision of the Ministry of Treasury and Economics and Management Board which I cannot explain. We indicated we needed \$14 million. We know now that we definitely need \$14 million, and I expect we will now get it, but they did not give it to us in June.

Mr. Stevenson: It is not terribly clear to me. Maybe if I read Hansard and get your numbers again. Why do the press release and the budget state \$399 million? Every number I find adds up to more than \$399 million.

Mrs. Burak: The figure \$400 million which the minister mentioned in his opening statement is obviously the more modest figure. It reflects what is in the budget, which is \$374 million of budgetary items and \$25 million for tile drainage debentures. That was the more modest approach to take. If you had asked me during the debates what I thought our budget was going to be, as the financial controller I would have said it would be closer to \$417 million, as of today.

Mr. Stevenson: I am curious. Obviously, when the FOCAP program came in a number was stated, and then the allotment was less than had been advertised. The same thing has happened here with OFFIRR. I take it that is not an uncommon event in funding of programs by governments?

Mrs. Burak: I do not recall the announcement in terms of total funding for FOCAP.

Mr. Stevenson: I believe it was \$40 million over three years.

Mrs. Burak: I would have to check that. I do not recall the announcement about FOCAP, but I can check that for you. In terms of the OFFIRR program, the cabinet has approved up to \$50 million. As the assistant deputy minister responsible for that program as well, we are doing everything in our power to make sure that as many farmers as possible take advantage of it and that we spend as much of that \$50 million as possible. We have only had \$30 million minuted to us by Management Board up to this date.

Mr. Stevenson: I will have to sort through these figures. I still am not totally clear on how these numbers add up but I guess it is probably some lack of understanding of mine. I will maybe ask you some more questions later when I have time to go back through this.

Mr. Ramsay: I find the interest Mr. Stevenson is taking in comparing last year's Ministry of Agriculture and Food budgetary figures to this year's very interesting, especially the two sets of estimates that did get printed because of the political situation of this province for this year. I think the real story lies in the trend of the budget, and the figures over the last five years I have before me.

In the period of the trend, say starting from 1979-80, you are talking about \$227 million to \$285 million in 1983-84. What is to be said about it, and I think this is the view of the agricultural community, is this is the first time in recent years a government in this province has said this is an industry that needs help and we are going to have to put money where our mouth is and has done it. It has really boosted the budget. Sure, we could, I suppose, nitpick over what was proposed for this year and do some fine adding.

There was an unusual situation this year, too, in that two parties were vying to be the power in this province. It is very difficult to say how sincere, after looking at that first throne speech we had in May, even the budgetary figures were.

I have here an Ontario Federation of Agriculture document that I always accept as being accurate because of their very excellent research department. The percentage spending, or however you want to look at it, as far as farmers and farm goods were concerned was not very seriously undertaken in this province. I think we have a first step here. I would like to congratulate the minister for being a strong voice in cabinet in getting the money.

That has been a problem in many cabinets too. Eugene Whelan was the man perceived to be, as a farmer, our friend, but we saw in later years he lacked the clout in cabinet. As farmers, we have

to make sure we support the minister. Sure, we can be critical, constructive, and I want to work with you too, but we have to support the minister and tell the minister we are behind him so he is the strong voice in cabinet and can get more money for the Ontario Ministry of Agriculture and Food.

I think we have just seen the start of the trend. I wish him well in pursuing next year's budgetary allotment. We are behind you. Let us see this trend continue with more money for OMAF instead of a declining percentage of the provincial budget, or any other index you want to compare with.

Hon. Mr. Riddell: My cabinet colleagues assure me that the one thing they can do is hear my voice whenever I speak out in cabinet. Now, to get along to some of the other concerns Mr. Stevenson expressed. He was somewhat alarmed at the amount of margarine that is being sold in contravention of the Oleomargarine Act. I will say that although charges have not been laid recently under section 4 of the Oleomargarine Act, the enforcement of the act in relation to licencing, labelling and product composition continues as usual.

Section 4 provides for the colour requirement for oleomargarine and unfortunately it specifies that the yellow colour shall be measured on the Lovibond tintometer under conditions established by the United States Bureau of Internal Revenue.

11:50 a.m.

Recently a judge ruled that the analyst conducting the test must have first-hand knowledge of these conditions. Since the United States regulations, which were put in place for taxation purposes were rescinded many years ago, it is not possible for our analyst to gain such knowledge. Accordingly, it is futile to pursue prosecutions for colour infractions.

In view of complaints that have been registered from a number of sources regarding the colour requirement it was decided, in considering the amendment of section 4 of the act, to examine thoroughly the pros and cons of the colour provision. I am still of the opinion that the colour differential which makes it possible for people to distinguish oleomargarine from butter is a valuable consumer protection measure. There are many consumers who simply want to know if they are eating oleomargarine or butter, particularly in public eating places. There is also a dietary concern on the part of many consumers.

Notwithstanding my present position, I want to ensure that all factors are objectively weighed

and, following a third meeting on this matter at the ministry senior policy level next week, I will be making my decision on the amendment to the act.

The member was as shocked as I was at the death of the tile contractor, Don Wright. This unfortunate accident on October 18 at Oshawa involving a tile drainage contractor and a gas pipeline is under investigation by the coroner's office. Since all the facts are not known at this time, we should not discuss the details of that incident. There are many rumours about the accident and nothing we can say now will clear the picture.

The construction of pipeline is under the control of either the National Energy Board or the Ontario Energy Board. We have been involved in consultations with them for the past 10 years in order to get improved controls on pipeline construction. We intend to continue our involvement with the board and with the pipeline companies themselves. The dangers inherent in underground construction near pipelines and the assistance available in locating pipelines is outlined to tile drainage contractors every year by either their association, the ministry staff or the staff of the pipeline companies.

Mr. Stevenson: In this case, was there a pipeline representative on the site when it happened? The accident certainly suggests that something was not where it was supposed to have been.

Hon. Mr. Riddell: As I say, we are somewhat restricted in the comments we can make since it is under investigation.

Mr. G. I. Miller: I have a question on that too. Is there a regulation indicating that it should be done to a certain depth? We had a similar incident in our area a few years ago with a smaller line operating under high pressure. They hit it but nothing happened. They cut it but there were not enough sparks. On our property, I am sure it is down at least four feet. There must be some regulations on depth to protect the agricultural industry. I think it should be examined now that it has come to the surface to see exactly what has to happen.

Hon. Mr. Riddell: I wonder if Vern Spencer would speak on that. I know that with transmission lines the code requires a minimum of 60 centimetres depth, or about two feet in farming areas. Whether that is sufficient or not I do not know, but Vern or Keith Pinder can comment on it. Vern, do you want to comment on it?

Mr. Spencer: The guidelines indicate they must be a minimum of 60 centimetres. The first

point is that guidelines have been in development over the years. The pipeline which was hit had been built in 1955. At that time we did not have many of the guidelines or regulations now in place. I do not think we have all the facts now about its precise depth when it was hit, but it was built when there were not nearly as many regulations.

There are federal regulations which indicate a depth of 60 centimetres. The practice is for company representatives to go along the route they are proposing for a pipeline, contact all the land owners, and determine their drainage patterns and what other items they have on their properties. Then they will build the pipeline two feet down or more if the land owner has requested it to accommodate drainage or various items.

The deeper one constructs a pipeline, the more costly it is. So there is a compromise, two feet being normally considered satisfactory protection, and only going deeper where it is required for some specific reason. The insulation of pipe is inspected by the fuel safety branch of the Ministry of Consumer and Commercial Relations. This is being investigated, not only by the coroner but by the appropriate agencies. That is a summary of the situation.

Mr. D. W. Smith: In most tiling areas 60 centimetres, which is a little over two feet, should be at least doubled or maybe increased to 150 centimetres. It is not uncommon, certainly in southwestern Ontario, to have header tile down four and a half feet. It amazes me, if there was a pipeline inspector or pipeline personnel on duty, that they would not realize how low that plough was dragging at the time. Somebody was not on the job.

For future regulations, you should be talking in the neighbourhood of 150 centimetres, especially in southwestern Ontario. That is the area I am most familiar with. Maybe in some areas you are getting closer to the rock if you go down that far. I do not know. The pipe has to be buried in soil. That is something that should be looked at.

Hon. Mr. Riddell: The next concern expressed by Mr. Stevenson is one which deserves perhaps a more detailed response because it has come to our attention through the various farm organizations as well as other groups. I am sure every member representing rural Ontario is getting questions regarding the spills bill.

12 noon

Absolute liability seems to be the concern most people have about the spills bill, but I have to say the bill is about absolute liability. It is my belief the spills bill is a necessary piece of

legislation for this province considering what has taken place in the past in connection with spills. It is also my belief the effect of the legislation will not put any undue financial or responsibility burdens on farmers. There are, however, questions in the minds of farmers as to how the specifics of the spills bill will operate and how farmers will be affected.

Soon after taking office I directed my staff to look at the agricultural implications of the spills bill. As a result of my ministry's study, I forwarded some questions of concern regarding liability provisions to the Minister of the Environment (Mr. Bradley). His response assured me that farmers' insurance would cover their liabilities and that the Ministry of the Environment was willing to assist my ministry in preparing educational material to inform farmers about the operation of the spills bill.

In addition, my staff has kept in contact with Ministry of the Environment staff to monitor the implementation of the bill. It is important to detail some specifics about the absolute liability and insurance provisions as the Ministry of the Environment informs us.

Farmers have expressed their confusion and concern about the term "absolute liability." The ownership-originated responsibility this regulation places on farmers has been greatly exaggerated. For example, if a farmer owns the contents of a tank truck delivering pesticides to his farm, the trucker and the trucker's insurer and the farmer and the farmer's insurer are liable in the event of a spill to pay for the costs of cleanup and restoring the environment to a reasonable state. Depending on the farmer's proximity to a spill, it would be reasonable to assume the farmer would want to do everything feasible to help clean up any spill.

If the owner or driver of the tank truck was at fault in causing the spill, the trucker and his insurer must pay for the cost of the cleanup and not the farmer and his insurer. Only if the trucker has no insurance or inadequate insurance would the farmer be liable. However, the farmer's insurer and not the farmer himself would have to pay the costs.

Farmers' insurance premiums are expected to increase somewhat this year. However, the size of the increase—I emphasize this—is not due to the spills bill. Insurance premiums are expected to increase across the country. They are going to increase regardless of spills legislation in this province. Insurance premiums are expected to increase across the world as insurance companies react to recent large spill disasters.

The Ministry of the Environment has been meeting with insurance companies and its staff reports the following pertinent points.

Farmers who have placed insurance with the 51 farm mutuals in Ontario are already covered for accidental pollution claims and have been covered for such claims for many years. The spills bill coming into force on November 29 will not change that situation.

The Farm Mutual Insurance Plan Inc., the umbrella organization insuring individual farm mutuals, is conducting its yearly negotiations for re-insurance through its insurance syndicates in order to maintain coverage for farmers who insure through the farm mutuals. Even if such re-insurance is not available by the end of the year, the Farm Mutual Insurance Plan Inc. will still be able to maintain its coverage by joining the pool set up by the other insurers. These steps have been planned to ensure that farmers will be able to maintain their insurance coverage for both their possible liabilities under the spills bill and those existing in law apart from the spills bill.

Farmers who have placed their farm insurance through insurers other than the farm mutuals should contact their insurance agent directly to make certain they are covered by their farm policy for their existing liabilities and for the additional liabilities imposed by the spills bill on November 29.

Regardless of which insurer a farmer insures with, there is every prospect there is or will be insurance available to such farmers well before November 29.

Every person purchasing an automobile insurance policy in Ontario must have the same standard form of policy ruling. The policy ruling is the same for all kinds of cars and trucks. Such automobile policy already covers accidental pollution arising out of the ownership, use or operation of a car or truck. The wording of the automobile policy will not be changed so as to exclude accidental pollution risk.

Hence, all spills arising out of the ownership, use or operation of a car or truck are covered and will remain covered after November 29. Thus, if a tank truck overturns and spills its cargo, the automobile insurance policy on the tank truck must respond to the cleanup and restoration costs on the basis of absolute liability and to claims by others on the basis of strict liability.

Under the spills bill regulations, the liability of a farmer conducting normal farming operations will not exceed \$500,000 for those additional liabilities imposed by the spills bill.

However, for those liabilities already existing in law aside from the spills bill, the farmers' liability is, of course, not limited to any amount. The bottom line is that there is every prospect that farmers will shortly be able to insure their liabilities up to \$1 million. The Environmental Compensation Corp. will respond to claims beyond that point.

I have to tell the committee that we have done considerable work on this spills bill. My special assistant, Hans Feldman, is probably as knowledgeable about this as any person in the Legislature. He has done a tremendous amount of work on this. If you wish, I am sure Mr. Feldman could field any questions about the spills bill at this time.

Mr. Chairman: Does the committee want to do that, or do you want to allow the minister to go through with his response to the critics in a more general way? It is up to the committee. Traditionally, we let the minister go through and respond in a general way and then, in the appropriate vote, call the civil service up to aid in the response.

Mr. Ramsay: It is fine for the minister to go ahead. I think it is a little unfair that I did not get a parade to put on my presentation with. It is probably the Royal Winter Fair parade we can hear now and it may even be his own revenues that are helping to subsidize this parade. So I am a little upset about that, but I will let him continue.

Mr. Chairman: That is very helpful. We will go ahead.

Hon. Mr. Riddell: I do not know whether Mr. Stevenson was being somewhat facetious when he talked about the Ontario Ministry of Agriculture and Food News.

Mr. Ramsay: Your picture was in it, Ross.

Hon. Mr. Riddell: The former minister is well aware there was a scientific readership survey released just prior to my becoming minister. I think the member is also aware that eight out of 10 farmers said they appreciated having OMAF News come to their homes. They found it most informative.

OMAF News was chosen second best corporate publication by the Canadian Farm Writers Federation last year and I am looking forward to the award night in Toronto this Saturday to see how it places. I am very optimistic that it will do extremely well.

I am satisfied that OMAF News is performing its role as an extension tool with the farm management articles and the publication of

records for ministry programs and news. I guess the reason I have changed my mind is due to a letter I received from the Grey County Federation of Agriculture. The letter states there has been a real change in content and editorial review.

I quote from the letter, "The Grey county board of directors was very critical of the OMAF News when it was launched and in fairness asked me to write you to express our appreciation for what we consider real improvements in the publication." Whether the improvements are due to the fact that I became minister, I have no idea.

Improvements have been made, and when I receive these kinds of letters from the local federations of agriculture I have to believe it is an excellent publication and farmers do get a lot of good information. I am certainly going to render my support.

Mr. Stevenson: The minister has come down on both sides of this issue so hard it is a wonder his voice has not changed.

Hon. Mr. Riddell: In all honesty, in the next issue I was considering having a feature article dealing with sour grapes.

All levity aside, let us move on. I have noted from Mr. Stevenson's comments his concern with the curtailment of advertising by the Ministry of Tourism and Recreation for the farm vacation program.

The ministry and the association agreed two years ago to a three-year financial assistance program on a sliding scale linked to the revenue derived from the association's membership fees. This will amount to approximately \$27,000 this year.

The accommodation guide put out by the Ministry of Tourism and Recreation had a section at the beginning with a big blurb on Ontario farm vacations. In fact, there were six pages that listed each farm with its description. This year it will be changed to just a listing for each, that is the name, address and the telephone number.

Of course, we are continuing to print free of charge 20,000 copies of the booklet which gives a complete description of each farm and its features. We also print a newer brochure which tells what vacation farms are all about. The voluminous treatment in the accommodation guide was really a bonus. Since the farms still appear in it, and with a distribution of more than 20,000 booklets, we do not see the change as being detrimental to the Ontario Farm Vacation Association program.

Mr. Ramsay: Possibly the banks could get into that business since they have many of the farm homes in the countryside now in their

possession. There are many deserted farms out there. You can just go ahead and help yourself. So I would not worry about it too much.

Hon. Mr. Riddell: The next item I have noted here from Mr. Stevenson's comments is in connection with the grain financial protection program. As Mr. Stevenson is well aware, the licence year for both the grain financial protection program and the beef cattle financial program terminates on October 31. As a consequence, it is an impossible task for the financial protection unit to assess all applications immediately following the licence year-end, to arrange for the immediate submission of information from applicants whose original submissions are deficient and to have security, where required, filed immediately.

In the circumstances, the important thing is to ensure there is protection for producers. Of course, this is afforded in the case of licensed dealers, whether they are dealers who have received their 1985-86 licences or those in the deemed-to-be-licensed category. Any dealer whose application for renewal of licence, licence fee and completed financial responsibility form is received by August 31 is deemed to be licensed.

Currently, the financial analysis of 60 per cent of the applications has been completed, and nearly all remaining applications have at least been subjected to a preliminary examination, with many of this latter group being held pending the receipt of additional requested financial information.

It is appreciated that some of those not licensed will have to file security. It should also be recognized that this year there is an additional step in the processing of licence applications. In line with the industry's wishes, a financial responsibility review committee must assess each application and make the final approval decision. The committee is comprised of three financial analysts, one representing dealers, one representing producers and the remaining member representing the ministry.

Although this committee plays an important role in ensuring that applications are dealt with objectively and uniformly, this further processing step does add to the time required to handle applications.

To avoid the inevitable licensing delays occasioned by the August 31 licence year-end, we now have draft regulations that provide for the changing of the licence year to the period July 1 to June 30. In addition, the regulations require that licence applications be submitted by April

30. This action, which has the support of the pertinent grain organizations, such as the Ontario Soybean Growers' Marketing Board, the Ontario Corn Producers' Association and the Ontario Grain and Feed Dealers' Association, will ensure that new yearly licences are issued prior to the commencement of the harvesting of soybeans and corn.

Other amendments included in the draft regulation provide for basic contract coverage and increases in contributions to funds under the program. These regulations have been prepared following a series of meetings with the three grain organizations at which not only changes in the regulations were discussed but also changes in the legislation providing for grain financial protection. We want to get into more detail on that at a later time. When the votes come along, we will have Dr. Ken McDermid respond to any questions you may wish to ask on this matter of grain financial protection.

Mr. Hayes: I have a question. I did hear—and it is rumour, as far as I know—that R. B. McKinley is back in business under another name. Are you aware of this?

Hon. Mr. Riddell: My understanding is that the type of business Mr. McKinley is now operating is one of a consultative or advisory nature. My understanding is that he is advising farmers regarding future markets, but he is not handling grain either for storage or selling purposes. If you hear anything different, I would appreciate your letting me know. He is operating a business that is quite within the law.

12:20 p.m.

Mr. Hayes: He is in the consulting business now?

Hon. Mr. Riddell: More or less.

The next item I have noted is in the area of vegetable protection.

Since Godfrey Growers Ltd. did not meet the financial responsibility criteria, the Farm Products Marketing Board decided the company should provide financial security and an agreement for the postponement of loans. The applicant then appealed this decision to the Farm Products Appeal Tribunal, which ordered the board to issue a licence to Godfrey Growers Ltd. as soon as the financial guarantee and the assurance of the postponement of loans are received by the board.

At present, an investigation is under way to determine whether the company is processing without a licence, since all the requested documentation was not provided by the applicant

at the time the investigation was initiated. Godfrey is the only applicant out of 41 applications not to receive a licence.

Stoney Point Canning Co. Ltd. met the criteria for financial responsibility on March 12, 1985. The administrator of the financial protection unit was notified on October 15, 1985, that six processing vegetable growers had not received full payment from the company.

Approximately 40 per cent of payments are still owing. Investigation of these claims is proceeding, and the financial protection board will be reviewing the claims when a full report is received. I believe the 12 or 14 growers who have not received their payments have all been asked to submit their claims. Stoney Point Canning Co. Ltd. is the only licensed processor in default.

I cannot comment too much on assessment of farm land because it is a Ministry of Revenue responsibility. My only suggestion would be that this matter should be raised when the Minister of Revenue (Mr. Nixon) is sitting in committee having his estimates reviewed.

Now, on to the Liberal agricultural election promises which the member for Durham-York says are missing in the budget. First, let me say I am pleased to see the Conservative critic recognizes the need for the programs we announced during the election campaign—

Mr. Stevenson: I did not necessarily say that. I just asked where they were. I did not say that I recognize the need. I do not recall saying anything particularly about the merit of any of them. I just question where they are.

Mr. Ramsay: I took that as an endorsement last night. I guess I misunderstood.

Hon. Mr. Riddell: I made the same assumption. In the event that I am right, I certainly look forward to having the support of the member for Durham-York when we introduce these measures. As far as I am concerned, we will live up to all of our election promises during our term in office, and many of them will be announced very shortly.

I will touch briefly on some of the matters raised by the member for Durham-York. Regarding the beginning farmer assistance program, I think he asked why private mortgages are not allowed under BFAP. The program requires extensive monitoring of beginning farmers. It was determined that private mortgage holders would not have the resources to do this regularly. Further, the administration of the program through private lenders was deemed to be difficult. Consequently, control had to be established through approved lenders. However, we

will continue to look at whether private mortgages can be included under the program.

Renters are not allowed in BFAP, which was a concern expressed by the member for Durham-York. At present a renter of a farm is eligible if he has earned the majority of his income from a source other than his rented farm. The present policy also allows this rule to be suspended if the applicant has farmed his rental farm for a period of less than one year.

It is difficult to establish a general definition of BFAP eligibility as it relates to renters. Many farmers who have recently entered the industry own small acreages and rent additional land to improve the viability of their operations. Many well-established owners of land and other assets rent additional land to increase overall efficiency and increase output of their operations. Many renters who have no land have large asset bases in livestock quota, equipment and other assets. They may have more equity in farming assets than many farmers who have recently purchased farm land.

Finally, there are many well-established operators who use rented land primarily and have no intention of purchasing land until it appears to be a good investment. Because of the prevalence of these types of situations, renters were deemed ineligible for the program.

However, when many of the farmers appeal decisions, we take a look at the circumstances. I have always shared the member's concerns about BFAP and the exclusion of those people who have rented land as a beginning towards some equity they could then show for the approval of loans under the Farm Credit Corp. I share the member's concerns, and BFAP is under review in that connection.

When these decisions are appealed these matters are looked at very carefully. In some cases they were considered eligible for the program even though they had been renting land. I have brought many of these matters to the attention of the people in our ministry, such as Nancy Bardecki, and we try to be somewhat flexible.

As I say, we have BFAP under review and I am seriously looking at this rental section.

Mr. Stevenson: The minister is talking about my concern. I did raise this issue, and this is one area where I do have concerns, what he is saying is true; but because I raised a particular issue on the platform does not necessarily mean I have personal concern one way or the other. I raised issues because they were there. There was no response. It does not necessarily indicate that I

have personal concerns on every point I raised on the list.

12:30 p.m.

Mr. Ramsay: That is a good point, whether or not it is a personal concern. Part of the trouble we have today is this focus on equity. We are going to have to look at new solutions in farming. Probably the farmer of the future will not own land; he may not even own any assets at all. We are going to have to start to look at that, because it is the main trouble we get into when we get the heavy debt load to purchase these assets, whether they be land or machinery.

We are probably going to have a farmer with more portability in the future. Of course, that raises concerns about care for the soil when you do not own it and other ramifications that could develop. As we design these new programs we will probably have to be cognizant of the new style of farming we are getting into and the high cost of obtaining ownership of different assets. We might have to tailor these to take this into account.

Hon. Mr. Riddell: Again, I have to remind the member we are flexible in many of our programs. In fact, some farmers with zero equity have been considered eligible for the programs. We are and will continue to be flexible in some of our assistance programs.

Mr. Hayes: I would like to back up to the issue dealing with the Stoney Point cannery. I appreciated that when I brought this issue to the minister's attention he got on it very quickly. However, I would like to know whether we have a tentative date or a finalization date when these

tomato growers will know when they will get their money for their tomatoes.

Hon. Mr. Riddell: Can I call on Dr. McDermid for a response to this?

Dr. McDermid: There was a meeting of the processing vegetable financial protection board last week and the next meeting is scheduled for December 6. If the claims are ready for examination at that time they should be dealt with during the course of that meeting.

Our investigators have contacted the producers concerned and have assisted them in completing the claim forms; these are being passed along to our financial protection unit. We have to allow about two weeks to give the processor an opportunity to dispute the claims.

It would seem to me we should be in a position to entertain those claims before the board on December 6, but I cannot be absolutely sure.

Hon. Mr. Riddell: Let me complete my comments on BFAP before we adjourn.

The Christian Farmers Federation of Ontario raised the same issue and has suggested one method of operation which I can tell you is currently under discussion by our financial task force. These are all matters we are looking at, and I hope I will be able to make some announcements shortly on some of these things.

Mr. Chairman: I gather the minister has more to say in reply to the member for Durham-York and the member for Timiskaming. We will adjourn now and convene again tomorrow evening at eight o'clock.

The committee adjourned at 12:33 p.m.

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 Switzer, Dr. C. M., Deputy Minister



No. R-15

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Estimates, Ministry of Agriculture and Food

First Session, 33rd Parliament
Thursday, November 7, 1985

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, November 7, 1985

The committee met at 8:06 p.m. in room 228.

ESTIMATES, MINISTRY OF AGRICULTURE AND FOOD (continued)

Mr. Chairman: The standing committee on resources development will come to order. The minister was replying to his two critics and we will continue with that now.

Hon. Mr. Riddell: I will finish off with the comments I wish to make in reference to remarks made by the Conservative critic. The member for Durham-York (Mr. Stevenson) concluded his remarks by referring to promises the Liberals made in the campaign that have not yet been fulfilled. I indicated to him the other evening that we fully intend to live up to the promises. Some we have already fulfilled, some are already in the process and some will be in the process before too long.

Mr. Stevenson made reference to the Grey-Bruce financial distress board. I have to tell my honourable friend that I was the one who had the subject of debt review boards placed on the agenda at the ministers' conference in Newfoundland last summer. We had a very full debate on the matter and we have given special consideration to the needs of farmers in severe financial difficulties, as was obvious by the statement I made in the House this afternoon.

Last, Mr. Stevenson asked about the study on the future of the industry for the Ontario Pork Producers' Marketing Board. I would tell Mr. Stevenson that several members of my staff have been meeting with members of the Ontario Pork Producers' Marketing Board and others in the industry to discuss some of the suggestions from the study on the future of the industry. Since many of the recommendations of the study were not approved by the board, it is difficult for my ministry to develop a co-ordinated program. We are, however, very interested in all aspects of the pork business and we have shown our interest through the development of the Ontario family farm interest rate reduction program and our continuing support for stabilization.

Again, I make reference to the new initiatives I announced in the House this afternoon. I sincerely hope the federal minister is moving ahead with his amendments to the Bankruptcy

Act and the establishment of debt review boards, which he may have in mind. I hope we will know by the end of this year what Mr. Wise intends to do or what the federal government intends to do about the bankruptcies and about debt review boards, with whatever teeth he intends to provide for them.

I have commented on most of the remarks made by the member for Durham-York. Now we will go to the comments made by the New Democratic Party agricultural critic.

The member for Timiskaming (Mr. Ramsay) asked about right-to-farm legislation. I would have to tell the member that my ministry is concerned about protecting farmers from complaints and harassment over normal farm practices. The issue is a growing concern among farmers and farm organizations. As an example, the Ontario Federation of Agriculture has called for legislation that would protect farmers from nuisance actions over normal farm practices. The federation made its presentation to cabinet on Wednesday last and, once again, they asked for right-to-farm legislation of some kind.

Certainly we want to create a climate in farming areas that is conducive to long-term agricultural pursuits. Since becoming minister, I have reviewed the food land guidelines. I have reviewed the Agricultural Code of Practice and I hope to be making an announcement about those programs very shortly.

We think we could probably give the farmers the kind of protection they need from complaints and harassment over normal farm practices by strengthening the food land guidelines and by changing the Agricultural Code of Practice. With the last amendments to the Planning Act, when a minister now makes a policy statement in the House that becomes incorporated in the Planning Act, which means that municipalities will likely give more credence to those guidelines than some of them have in the past.

Many of the townships have incorporated the guidelines into their planning processes and have followed them very rigidly. The complaints I get from many in these townships is that it is like pulling hens' teeth to get severances of any kind on agricultural land. I have to give a lot of credit to many of the municipalities throughout Ontario

for applying the guidelines as rigidly as they have.

Mr. Ramsay: I agree that strengthening the food land guidelines would be appropriate, especially in dealing with future situations; but I am worrying about present situations where there already has been encroachment on rural land, usually residential development. How can we address that situation? Strengthening those other guidelines will prevent future encroachment but we probably have a problem now. Right-to-farm legislation would probably be the piece of legislation that would target that problem.

Hon. Mr. Riddell: If that is the way we have to go, that is the way we will go. We are at present reviewing the situation and I hope to be able to make an announcement shortly.

The member talked about the Farmers' Creditors Arrangement Act. This, in the year 1985, may not be an appropriate approach. I can well recall working in Saskatchewan in the late 1950s and early 1960s. There was still a very bitter feeling about the impact the Farmers' Creditors Arrangement Act had on the creditors.

I must remind members that before the Farmers' Creditors Arrangement Act was passed insurance companies would put out long-term and intermediate-term credit with farmers. After that came into effect, no longer would the insurance companies put out credit.

I have had all the officials of the chartered banks into my office and we have had some very frank discussions. I asked them what would happen if we were to impose moratorium legislation on them or if the federal government implemented debt review boards with power. They said unequivocally that they would become extremely tough with marginal accounts.

In other words, they would become very selective about who they would continue to deal with. There is no question that they would continue with their agriculture portfolio, but they would make sure the farmers to whom they were lending the money were in an equity position where they could pay back that loan with very little difficulty. Those farmers who rely on credit and operating capital just as much as the others in a more favourable equity position would probably be left right out of the picture.

If put under pressure through some kind of legislation they could not live with they would close out all marginal accounts. That would likely mean that many of the farmers on option C of the Ontario farm adjustment assistance program would be gone. We would have to be very careful about the kind of legislation we pass. We

certainly would not want the banks to diminish their agricultural portfolio, because farmers rely very much on chartered banks.

At one time, 70 per cent of all long-term credit came from the Farm Credit Corp. Today that amounts to about 30 per cent. That shows the kind of reliance the farmers do have on banks. We have to be careful that we do not destroy the opportunity farmers now have in obtaining credit from the banks. Certainly whatever we do would not only affect the marginal farmers but would tend to have an effect on farmers in general.

8:20 p.m.

I understand that Saskatchewan has had some regrets since they imposed their moratorium legislation. One of my staff was out there just this past week speaking to the Canadian Bankers' Association and learned that the Saskatchewan moratorium would probably have been better left on the shelf. Apparently it is not working all that well.

The federal minister's commitment to change the federal Bankruptcy Act to allow a formal judicial review of farmers' debts is probably the best way to try to meet some of the farmers' financial problems. As far as I am concerned, it is the only way. The federal government alone has jurisdiction to amend the Bankruptcy Act or to put some kind of control over the banks, since they all operate under the Bank Act. That is federal, and the Farm Credit Corp. is a corporation of the federal government. There is nothing we can do.

We have done everything we can possibly do provincially by putting a temporary deferral on junior farmer establishment loan board mortgages and on leases under the old agricultural and rural development agreement program, and by putting a temporary deferral on option C of the Ontario farm adjustment assistance program. That simply means we would not require the banks to liquidate the security.

The banks, if they so wish, can still call the government guarantee but we would not require them to liquidate the security. Option C of OFAAP was a dream child of my predecessor. If I had been minister, it would never have seen the light of day.

I know the farmers feel that option C should never have been introduced. Many of the bankers with whom I have spoken are of the same opinion. They do not feel option C was a program that should have ever been introduced for the farmers. It seemed to be a last recourse for many of the farmers. They felt that by taking out option C conditions would change next year and they

would be able to repay their loan and get away from it.

I sometimes wonder if many of the farmers knew exactly what they were doing when they made application for option C of OFAAP. I am glad to say that program no longer exists under OFAAP, but those people who do have option C can carry on and roll that over into next year until 1987. Am I correct there, Dr. Switzer?

Dr. Switzer: Late 1987.

Hon. Mr. Riddell: I believe 1987 is the last year they can roll that over. I hope that will be the last we see of OFAAP. The program I introduced puts a temporary deferral on OFAAP. The banks have indicated their co-operation.

When I met with them, I said: "If I was to implement this type of program, would you people be prepared to co-operate? Would you make reference to our farm advisory committee before you decided to call a guarantee?" The banks rendered their co-operation. I anticipate they will live up to the—I do not know whether I would call it a commitment, but they made me feel they were quite prepared to co-operate and hold off on calling a guarantee, unless they saw that some subordinate creditor was going to step in. Then they would protect their—

Mr. Ramsay: I am glad you addressed that very fully. I brought it up in this way. It is a focus of our conversation. I brought the point up by looking at the symptom of the disease but you, in your answer, actually mentioned the cause of the disease; that the Farm Credit Corp. is no longer the prime agricultural lender of this country. That is what we should be addressing. Even though it is a federal matter, the mandate of the corporation is one of the problems.

One alternative is—I do not know if the government would want to consider it—using the Province of Ontario Savings Office and maybe caisses populaires and credit unions to form some sort of provincial long-term lending agency catering to the agricultural community. That is possibly another answer.

Hon. Mr. Riddell: The Farm Credit Corp. is under review. I am hoping we will see some very sweeping changes in the corporation. I think we will. Mr. Wise has invited submissions from farm organizations and people such as you and myself. We made some recommendations we felt would vastly improve the role of the Farm Credit Corp. It remains to be seen how he acts on those. I feel they will serve a more prominent role from the standpoint of long-term and even intermediate credit for farmers than they have in the past. At least I hope that will be the case.

Mr. Ramsay made reference to stabilization programs. He was not particularly optimistic this was the answer for farmers. He felt it did nothing more than lock them in poverty. I would be the first to admit that any kind of stabilization program is nothing more than a stop-loss type of assistance to farmers, to assist them through the valleys. It is certainly not designed to replace market signals. It is not designed to provide a profit of any kind for farmers, and we would not want that. One of our big problems today is overproduction. We do not want to introduce any program that would lead to more production than we have at present.

I think the tripartite stabilization program will allow farmers to react to market conditions. It will certainly not lead to the stimulation of overproduction, but it will help keep farmers in business. At least they will know that if the price of beef falls to 60 cents or pork goes down to 65 cents, this program will kick in and bring them up to a price where at least they should be able to pay their input costs. That is something they are not able to do today. The price they are getting for commodities is not really paying for their input costs. Without this kind of program, I do not see how these farmers could continue.

Mr. Ramsay: What specifically is the \$20 million for in this year's budget for tripartite? Is it to buy into the program or to cover payments in the second, third and possibly fourth quarters?

Hon. Mr. Riddell: It is designated for the retroactive payments we will be making on the second and third quarters. There is a possibility there may not be a fourth-quarter payment. I believe I indicated the other day there may well be one, but prices may be such before the end of the year that tripartite would not kick in. However, there will be second-quarter and third-quarter payments. The \$20 million is designed to share with the federal government in the costs of whatever those payments will be.

8:30 p.m.

On the Drainage Act, perhaps if the member would be kind enough to wait until we get to vote 2103, if other members agree, I could have my staff provide the committee with a full presentation on the roles, responsibilities and methods of appeal under that act. We have a bit of a slide show on this. I think all your questions would be answered if you had an opportunity to see this presentation.

Mr. Stevenson: How many days would that take?

Hon. Mr. Riddell: I do not think it is a long presentation. How long would it be?

Dr. Switzer: It is like a good lecture; it can be tailored to whatever length you wish.

Hon. Mr. Riddell: Mr. Ramsay expressed a real interest in supply management. I think he is well aware that the legislation is in place if the producer groups wish to establish supply management plans. Whenever they feel this is the way they want to control production and establish a better price for themselves, the mechanism is there. If they wish to petition the government, a vote would be held if a significant percentage of the producers showed they were in favour of such a program.

Our problem has been that farmers are about equally divided on supply management. You probably have not had an opportunity to attend the various conventions, the Canadian cattlemen's convention or the Ontario cattlemen's convention and the convention of the pork producers. It seems to me this subject has been broached for many years. When a vote is taken, there always seems to be a higher percentage of producers who do not want supply management.

It is very difficult for a minister to ignore that kind of message because these boards are all duly elected boards and supposedly represent the farmers throughout the province. When they conduct their own poll and arrive at the results they do, then who is the minister to come along and say, "Whether you want supply management or not, you are going to get it"?

It is interesting that shortly after I became minister a busload of pork producers came to visit me at my constituency office. There is no question they were angry and I was the target. They started talking about the price they were getting for their product.

I said: "Let us stop right there. Be kind enough to tell me what you want me to do about price. What do you feel I can do about price?" They stammered and stuttered and really did not know what to say. I said, "Is there anything you people can do about price?" They knew what I was aiming at.

The rest of the morning I spent refereeing a verbal attack that half of the producers in the office were aiming at the other half. Half of the producers would have nothing to do with supply management; the other half felt it wanted it. It is a very difficult thing for any minister to handle, but as I say, when the producers reach the decision that they want supply management, the legislation is in place and we can get the wheels turning very rapidly, once they give us the signal.

Mr. Ramsay: So I have to go out there and sell it. We will sign them up when we get them in there.

Hon. Mr. Riddell: Mr. Ramsay has felt, as I have, that there needs to be an agricultural strategy both at the federal and provincial levels. I must say the ministry is working on a strategy which we hope will be in place next year. One of the first tasks I had my ministry staff tackle was to look into a strategic plan. They are working diligently on this. As I say, I hope to be able to announce something next year. The Premier (Mr. Peterson) will be discussing a national agricultural strategy at the first ministers' meeting.

Mr. Ramsay expressed concern about free trade. I think most of us in this room have a real concern about the impact free trade may have on agriculture. I was hoping my colleague the member for Kent-Elgin (Mr. McGuigan) might have been with us this evening because he sat on the committee looking into this matter and the impact it would have on agriculture. I believe the member for Wellington South (Mr. Ferraro) sat on that committee.

Maybe somebody else in the room sat on it as well. If they did, I am sure we could spend a few minutes to hear what they had to say, but I guess that is not the case. I might just share the comments of the committee on that.

Mr. Ramsay: This is the real thing?

Hon. Mr. Riddell: This is the real thing. It is the committee's report on agriculture. It says:

"The agricultural sector is not protected by any existing bilateral agreement, but the committee believes that it, too, is a special case. Climate and soil conditions will keep Ontario's agriculture less productive than comparable producers in the United States. Canada has developed unique institutions which manage the supply of some agricultural products produced and marketed domestically.

"Marketing boards do not exist for all products but they do for some significant ones. Governments have instituted numerous subsidy programs and special protection for agriculture. There are two broad goals to this government activity: Canadian governments wish to ensure that this country will continue to produce as much of its food as possible within the given geographic limitations; and Canadians wish to preserve the values that are embodied in the family farm.

"Both of these goals could be endangered if United States imports of agricultural products

were granted unrestricted access to the Canadian market."

The recommendation was that the agricultural sector should not be on the agenda for any trade discussions.

We support the Premier's view of a slow and cautious approach to free trade. I personally believe agriculture should be excluded until the full impacts on all sectors of agriculture are evaluated. I have just read you the recommendations of the select committee on economic affairs.

You then made reference to agricultural and rural development agreement leases. The policy which is in place is as follows: if a tenant is leasing a farm and cannot buy it or believes it is too costly based on current market value, the farm is put on the market and the existing tenant as well as anyone else can bid on it.

As far as the leasing rates are concerned, they are just coming up for review. We will have a look at them to see what the rates will be for next year.

8:40 p.m.

About rationalization of the milk processing industry, I would respond by saying the most recent concern was the application of Ault Dairies to discontinue processing at its North Bay plant and supply from the Sudbury plant. This application was heard on August 22. The Ontario Milk Marketing Board did not appeal the application. As the member can appreciate, the issue is a very complex one. I would suggest we go into the details of this issue when we consider the quality and standards item, vote 2102(3).

The member talked about self-sufficiency. I am very pleased to see my colleague so supportive of our provincial agricultural industry. He has clearly indicated a number of opportunities and concerns, and overproduction is one. However, I am not in full agreement that Ontario farmers can in the long term afford to withdraw into a domestic shell and satisfy only our own markets. Self-sufficiency is a very complex policy. It requires placing limits on the natural productivity and competitiveness of our farmers. It may mean sacrificing export markets. It may mean strict rules and regulations on interprovincial trade and even on farming practices.

Equally important, a policy of self-sufficiency alone cannot assure our farmers of long-term economic health. We must have other policies and we must remain flexible to adapt to changing consumer demands. I would instead prefer your emphasis, Mr. Ramsay, on market development

and import replacement, building on our strengths within Canada and within the world. I do not feel we should simply strive to fulfil the demand on the domestic market and forget about an export market.

Mr. Ramsay: That would have been a misinterpretation of what I meant. What I meant was that we should be able to be self-sufficient in many of the different commodities that we can grow here, leading to import replacement. We have canned fruit from Australia and many other countries. The sort of thing we could be striving for is another market for our domestic growers. It is being supplied from the outside.

Sure, we have to keep our exports up, but we can still gear to the domestic market a lot more. I do not have all the answers on how we could do that, but we have to become more self-sufficient in the canning industry. We need to gear to where the market is, maybe more to fresh fruit and vegetables; the fresh food market altogether, which is probably a more upscale market and growing right across the board.

We attempted to do it with peanuts. Maybe that one was not a success, but we could start looking at that again and advising farmers where we should be going.

Mr. D. W. Smith: As a supplementary to what Mr. Ramsay said, are you considering or thinking of a two-tier system where we protect the domestic market to the point where we produce what the market will bear here, but if there is any export then it should be sold at the world market level?

Mr. Ramsay: I was not talking about pricing at all. I am talking about gearing the industry to supply our own produce, such as frozen strawberries. Why should we be buying Mexican frozen strawberries?

Mr. D. W. Smith: When you mentioned tomatoes, for instance, Libby's is closed in Chatham. The farmers can produce the tomatoes but the processor will not keep his plant open. I wondered whether you were trying somehow to say we should say to these processors: "Why can you not keep your plants open in order to give these farmers a job? They are willing to produce the tomatoes." However, I think the processor has found a cheaper market somewhere in the world—cheaper to the producer; that is what it is.

Mr. Ramsay: I would not talk about a two-tier system, but I would consider restricting imports. We get into a lot of trouble in this country with that, whether it is beef or canned tomato products.

Mr. D. W. Smith: So you feel if we restricted imports some of these processors might be keeping their plants open?

Mr. Ramsay: Certainly, with the tariffs on that would reduce the price differential; we would be in the ball game. It seems we always get tradeoffs for our manufactured goods with the European Community; and we take their agricultural products.

Mr. D. W. Smith: May I ask the minister, does the provincial government have the authority to put on import quotas?

Hon. Mr. Riddell: We have no authority whatsoever to impose import quotas, tariffs or anything else.

Mr. D. W. Smith: That is a federal jurisdiction.

Hon. Mr. Riddell: That is right. We cannot control the border in any way, but we can always strive to become more competitive through research and development. However, there needs to be a lot of work done on import replacement; I agree with Mr. Ramsay. I have talked to farmers who tell me there is no reason in the world, if we were to improve the means of refrigerating and storing some of our cold crops, why we should have to import them. Some farmers tell me we should not have to import lettuce, for example; we could grow it if there were some way we could store it and have a continuity of supply for our stores.

Mr. Ramsay: That is exactly what I was going to say with respect to apples, for example. In the past, in terms of preserving apples, Ontario has done a marvellous job in research and now in the marketplace. We have extended the life of that crop. That is the sort of thing I am looking at: more research of that sort; maybe into other types of root crops. We could be getting into hydroponics and waste energy to grow a lot of things in greenhouses.

Hon. Mr. Riddell: We place a very high priority on research within our ministry, and we are going to be looking at every way possible to replace some of the imports.

Last, Mr. Ramsay talked about a sustainable agriculture. With your indulgence, I would like the deputy minister to respond, because in 1979 Dr. Switzer gave the Klinck lecture on sustainable agriculture. I believe that same year he gave 17 speeches on the subject. Would you like to hear what Dr. Switzer has to say?

Mr. Ramsay: He should be good by now.

Dr. Switzer: With all due respect to the minister, I would question whether you would

like to turn me loose on this, because once I start it is 55 minutes.

Hon. Mr. Riddell: The chairman will cut you off.

Mr. Chairman: It is a good question.

Dr. Switzer: Where I would like to start, and I think it is where you start, Mr. Ramsay, is with what I like to refer to as biological sustainability. I think you are referring mainly to the sustainability of an agricultural system in this province that will allow for our grandchildren to have the same kind of good things growing in Ontario that we have now.

I would like to make the comment, and it comes back to the policies of our ministry, that we are interested not only in biological sustainability but also in what I like to call economic sustainability. There is absolutely no reason to maintain a good biological base out in the province if there is no one to farm it. That goes without saying. When we are talking about sustainability, we should always be thinking about economic sustainability as well as biological sustainability.

While I support efforts in conservation, and certainly the ministry's policies very much support conservation—the Ontario soil conservation and environmental protection assistance program, with new people out there helping people conserve soil, is an example; that is probably the biological sustainability—when I think about sustainability I also think about some of those financial programs that make it possible for the farmer to have some kind of economic sustainability.

I will stop at that point, because otherwise I will carry on too far.

Mr. Ramsay: That is the 55-minute distillation now. He has become good at that.

Dr. Switzer: I do not think I even mentioned that in those 17 lectures.

8:50 p.m.

Hon. Mr. Riddell: This completes my response to the leadoff critics. We are ready now for the votes.

Mr. Chairman: For the benefit of the new members on the committee, it might be appropriate to indicate how we are going to proceed on the votes so there is no question as we go along.

There are four major votes in the Ministry of Agriculture and Food; you can find them in your estimates books. The first one is vote 2101, which deals with the ministry administration program. Technically, what we are doing now comes under that. The second one is the

agricultural marketing and standards program, which is several pages along in your estimates book. The third one is the agriculture technology development and field services program. Finally, there is the financial assistance to agriculture program.

The reason I point those out is that you will notice there are subvotes under each one of those. It is tradition that we take each of the subvotes in order and then vote on the entire vote as well when we have done all the subvotes. The reason it is usually appropriate to proceed in order is that it allows the minister and his staff to plan when they are going to be here and so forth, and it avoids repetition in debate by members. It is not to be unduly rigid that we do that; it is simply to expedite the process.

We will consider that we are on vote 2101 and that we have been talking about the general ministry administration.

On vote 2101, ministry administration:

Mr. Chairman: Are there any other comments on vote 2101, items 1 to 7? By the way, you will notice there is an "S" under some of the votes. That means they are statutory. They are there by law and cannot be voted on in the estimates debate. The others can be.

Mr. Barlow: We cannot debate the minister's salary?

Mr. Chairman: That is right.

Hon. Mr. Riddell: I am going to feel free to pass a lot of the questions on to my staff because the members will realize I am speaking to a budget which I had no part in making.

Mr. Ramsay: We can ask Ross.

Mr. Chairman: Are there comments on vote 2101?

Mr. Stevenson: I have a number of points on general policy. They probably fit better here than later. I also know that Mr. Villeneuve has some comments on the spills bill. Do you want to do that now?

Mr. Villeneuve: It is fine with me if we do it now.

Mr. Stevenson: You go ahead with that and I will save mine until later.

Mr. Villeneuve: First, I congratulate you on your appointment as the new Minister of Agriculture and Food. Your look-ahead conference last Wednesday was most enlightening, although some of the enlightenment was something we would rather not have heard. However, that is the economic state of the industry, which is going through some very difficult times.

I want to touch on the eastern Ontario subsidiary agreement for a little bit. It is something that was very important to my area of the province. The previous government, in its throne speech, had allocated some \$40 million to the continuance of the eastern Ontario subsidiary agreement. I note that it has not been mentioned at all.

There are some 15 press releases here reporting that some assistance has been provided to difference producers and municipalities, as well as a number of others; these are people who looked towards that eastern Ontario subsidiary agreement to be continued. I ask you what your thoughts and intentions are vis-à-vis EOSA. Possibly you can comment on it a little later.

I was very glad to hear you state yesterday morning that you had a change of heart on the OMAF publication. I saw one with a front-page picture of the federal minister showing you how to start a tractor. I know auctioneers sometimes have problems starting equipment when they are trying to sell it.

Hon. Mr. Riddell: I have to make him feel important for some things.

Mr. Villeneuve: I hope and trust you did get that tractor started.

The Ontario Federation of Agriculture, as you mentioned rightly, made a presentation to the cabinet yesterday and to our caucus. The spills bill is of great concern, and I do not think it is undue concern. My people in eastern Ontario have often asked, "Why is the Ministry of the Environment always pulling the strings on OMAF?" They are asking that even more now than in the past.

The Minister of the Environment (Mr. Bradley) mentioned today on another matter that he was very pleased to see that people who are being charged or looked into in connection with situations that have occurred vis-à-vis the toxic materials found in southwestern Ontario are actually innocent until they are proven guilty. I respectfully submit that this spills bill works in the exact reverse.

There have been comments in farm papers by people who claim to know about the spills bill. They say: "It is not a problem. It will not cost money to agriculture. It is an insurance problem." Finally, the Minister of the Environment has stated, "No, there is no free lunch; it will cost money."

I respectfully suggest that the \$6 million you have set aside to help farmers get out of agriculture is a drop in the bucket compared to what this piece of legislation will cost agricul-

ture, directly and indirectly, in the years to come. We will never be able to measure the costs because it is a situation that will be adding costs to the materials that farmers use. It will be adding costs to their taxes because—I will quote from the *Ottawa Citizen*—“liability insurance costs will be passed on to consumers.”

As the minister well knows, we farmers are in a situation where we have no jurisdiction over our costs or our income. Consumers have no jurisdiction over their costs. The people in the middle are the ones who call the shots.

I am for a clean environment, but there has to be a better way. If a milk truck leaves your farm or mine and accidentally spills its contents into a watercourse, tying up all the oxygen in the lake and all the fish go belly up, what happens? When I phone for a load of liquid fertilizer or chemicals and my supplier says it is freight on board the plant, that will be my responsibility. These are situations that will inevitably be coming up more and more. The first year may not see a big increase in liability costs, because I firmly believe the insurance companies will play it by ear. However, it is a great concern out there.

I was glad to hear you say you had a change of heart when you got good reviews from a federation of agriculture—Grey or Bruce or whatever—about the farm newsletter, when they said it was a very good newspaper. You said you had changed your mind and thought it was a good newspaper. I say to you to consider this bill in the same light. I firmly believe the absolute liability aspect will be borne by consumers and by farmers.

9 p.m.

The regional municipality of Ottawa-Carleton is preparing for a rise of as much as 300 per cent in its \$125,000 annual liability insurance premium next year for a policy with a smaller umbrella. This will not cover any environmental damage. Insurance companies are very gun-shy. Similar quandaries face all cities and school boards. In August, the Association of Municipalities of Ontario decided to form a committee to look into the Municipal Affairs Act and to request that the act be changed to restrict what can be considered negligence and to limit the length of time a resident can wait before suing a municipality.

I respectfully submit that judges have been playing Santa Claus when it comes to some of these liability cases. You are hitting agriculture at its most difficult economic time since the Depression, and these costs are going to be very hard to carry. We are losing farmers left, right

and centre, and this will not alleviate that situation. Four years ago, insurance companies were falling over themselves to attract new clients, cutting prices and offering incentives to keep the premiums flowing. Now they are shell-shocked and withdrawing.

I could go on and talk considerably more. The consumers have to be made aware that if someone owns a cottage in a resort area and if at hunting time someone blasts a hole through his 200-gallon fuel tank, the man who owns that fuel is responsible for the cleanup. Where the chips fall after that, no one knows.

Consumers and farmers will bear the brunt of that piece of legislation. The Ontario Federation of Agriculture, unless it is giving you a very different message from the one it is giving me, is very much against the absolute liability aspect. You should give it a very close listen.

Regarding the budget, to touch a little bit on another subject, I would have liked to have seen a little more imagination. I know the Ontario family farm interest rate reduction program will be very beneficial. However, I would have liked to have seen the prospect of income addressed; in ethanol fuel, for instance.

We have corn going to market across Ontario; it is a bumper crop, and it is going to market at less than production cost. I am sure I do not have to tell you that; you know that. In eastern Ontario, at Prescott, we have a very large elevator that is very much underutilized. I respectfully submit that we need a little bit of imagination and some incentives here. We import just about all the fuel we use in Ontario. There is a possibility. We could be self-sufficient for at least 10 per cent of that fuel in that way. You and your ministry should have a look at that one. It is a very distinct possibility.

If our farmers keep producing grain at the kind of prices they are having to take this year they will not be around very long. The OFFIRR program will not help them, and the \$6 million that was set aside to assist them to go into other endeavours will simply not be anywhere close to what will be required.

To go back to the spills bill for a minute, I have a number of local insurance companies that are concerned about the government of Ontario going into the insurance business. We do not know what is happening in this area, and unless my sources of information are wrong, at one time in the late 1970s the current minister was not all that much in favour of a certain spills bill.

I may be wrong in that assumption. However, it is somewhat disturbing to members of the

farming community who thought they knew the old Jack Riddell and have now seen the new Jack Riddell. It is of concern to them. They say, "Yes, I knew Jack as a very able fighter when he happened to be in another position, that of a critic." I have to say to you with all honesty, please go back to some of those things you were thinking about then.

I find a little difficulty with my colleague from the New Democratic Party. Apparently he is a critic. I have some problem with that. I would say an accomplice or collaborator might be a better handle because he has not found a great deal wrong. Did the real Jack Riddell turn into a Socialist? Or did Mr. Ramsay become more or less Liberal?

Mr. Chairman: That is a good question.

Mr. Barlow: It calls for an answer.

Mr. Ramsay: He insulted us both.

Mr. Villeneuve: Those are my major concerns. With respect to the eastern Ontario subsidiary agreement, let us look at ethanol fuels. That is an area in which we could be at least 10 per cent more self-sufficient than we are now. On the spills bill, please, I plead, think about it again.

Hon. Mr. Riddell: I appreciate the sincerity of your concerns. I may not share them. The Jack Riddell I was and continue to be is the Jack Riddell who will go out and talk very honestly and frankly to farmers. I have done that all over this province, and once I fully explain what the spills bill is all about, they say, "Let us get on to the next topic."

If you want to be honest with farmers and go out there, instead of trying to stir the pot—I say this respectfully—you would tell farmers exactly what the spills bill is all about, and that liability insurance is going to go up but not because of the spills bill. It is going up anyway, because of the payouts that have been made, not only on a national but also a global basis. We are going to be blamed for increases in liability insurance because of the spills bill, but any increase is not because of it.

A lot of farmers are concerned, as are other people, about absolute liability. However, that is the bill.

Mr. Ramsay: It is their bill.

Hon. Mr. Riddell: That is right. You people brought the bill in about seven years ago.

Mr. Villeneuve: Why is it not law?

Hon. Mr. Riddell: When it was brought to a vote in the House, all parties voted for it; but the

Conservatives, for reasons I would not dare mention here, decided to keep it on the shelf.

I would have to ask you how you would feel if a tankload of chemicals spilled on your property and got into your water table, perhaps into your well? How would you feel about having to go to the expense of cleaning that up, taking whoever you thought was liable to the courts, having a court make a decision two, three or six years from now as to who was liable and then you would have to try to get some recourse after all that time? Is it fair for the innocent victim to have to cope with that kind of situation? I say it is not.

9:10 p.m.

That person should be compensated immediately for any damage done to his property. As far as liability is concerned, the owner and the transporter are really only liable for an immediate cleanup. If a drunk driver ran into the tank, turned it over and spilled the chemical, then the drunk driver would be liable under common law, but the liability aspect of it is the cleanup.

The owner and the transporter are liable if they do not commence an immediate cleanup. I do not think that is too unfair. We have also put a cap of \$500,000 on liability for farmers. Most farmers carry liability insurance of anywhere from \$500,000 to \$1 million, so their insurance policies are going to cover that kind of liability.

I have to put faith in the integrity of the Minister of the Environment who says that is the case. He says the insurance companies are going to cover that kind of liability.

Mr. Villeneuve: Give us some costs, please. Even if they are low estimates, give us an idea. That is not just for liability coverage; it is for the additional cost of the product as it will be purchased and continue to be purchased by the agricultural community. Those are the real costs.

Hon. Mr. Riddell: It may or may not be. You and I do not know for a fact that they are going to raise the cost because of the spills bill.

Mr. Villeneuve: You people are proclaiming it. Give us an idea.

Hon. Mr. Riddell: It is something that we can and should monitor. However, I do not share the same concern that you do about the spills bill. I do not like absolute liability any more than you like it. It may seem contrary to common law.

Mr. Villeneuve: It is.

Hon. Mr. Riddell: On the other hand, why should the innocent victim be responsible for taking the other people to court before he can ever get compensated for any kind of damage? The onus is placed on him to clean up the damage

under the existing system, but under this system it will be those people who are directly involved in the spill who are now going to be responsible for cleaning it up. I cannot see anything too unfair about that.

I am going to have Vern Spencer comment on the eastern Ontario subsidiary agreement. Vern may also want to elaborate further on the spills bill.

With respect to producing ethanol, cautious optimism and support can be given to the use of ethyl alcohol as a co-solvent for methyl alcohol as an additive for gasoline if a major manufacturer such as the St. Lawrence Starch Co. Ltd. becomes involved and if forecast prices are less than 50 cents per litre.

As far as the benefits are concerned, we could use up to a maximum of 15 per cent of all the grain corn grown in Ontario at present. A more likely scenario is two to three per cent of the corn grown. We could create up to 50 jobs for plant operation, support and supervisory staff. Alcohol has replaced lead as an octane enhancer for gasoline and does not cause as much pollution. There is no question there are certain benefits.

However, there are also problems. The oil companies would have to produce a tailored gasoline for use with the alcohols to meet Canadian General Standards Board specification CAN 2-35-M79. Otherwise the vapour pressure would be higher than permitted. This would add some extra costs, primarily for separate storage, transport and sales facilities.

An alternative would be for Ontario to ignore the Canadian General Standards Board specification for vapour pressure. This is done in western Canada. A plant producing 45 billion litres of ethyl alcohol per year or 100,000 tonnes of corn would produce sufficient distiller grains to feed 150,000 steers. These should be within easy trucking distance for best utilization. Ethyl alcohol would have to compete with the isobutyl and isopropyl alcohols as co-solvents for methyl alcohol. They sell for about 50 per cent of the price of ethyl alcohol. However, neither is produced in large supplies in Ontario at present.

Ethyl alcohol will probably require a subsidy or tax easement of some sort to make it economically viable, as it is in the United States. The oil companies have less interest in a product that is dependent on government support. We have looked into it, but there seem to be a few more problems than benefits at this time. That is not to say we should disregard any further work on it.

Mr. Barlow: I have a question on part IX of the Environmental Protection Act, known as the spills bill. The minister says, and I think it is a well-known fact, that liability insurance is going to go up. It is ever-increasing. There have been some horrendous settlements in the past and I do not think it is news to anyone that liability insurance is going up.

However, I do not think you are going to be able to blame the total increase of liability insurance on other factors. It is a well-known fact there is going to be an increase because of the proclamation of the spills bill. Have you or any other government officials, including the Minister of the Environment, been able to determine how much liability insurance is going to go up for farmers as well as for other sectors because of the proclamation of the spills bill?

Hon. Mr. Riddell: I will have to rely on Vern Spencer for that information. I do not know whether the information is available, but perhaps Mr. Spencer would like to comment.

Mr. Spencer: I think you are right. I do not think that is settled. The fact is that the spills bill is being proclaimed in Ontario, but liability insurance rates are the result of worldwide conditions. It is very hard to isolate what is a worldwide influence and what is an Ontario influence, if there is an Ontario influence.

Because of insurance, reinsurance and the types of pools that are set up, my initial comment is that it is going to be extremely difficult, if not impossible, to identify the specific effect of the spills bill. It will depend a little on whether they insure some of the liabilities as separate items or whether they keep them in a total pool.

Our information is that precisely how the industry is going to handle it and whether all the insurers are going to handle it in the same fashion is not known at this time. From what I can gather, I do not think anybody could give you a definitive answer saying that a particular percentage of any increase in liability insurance would be specifically because of the proclamation of the spills bill in Ontario. That may be an unsatisfactory answer but I think it is a truthful one.

Hon. Mr. Riddell: Do you have other general comments to allay the fears we have about absolute liability?

Mr. Spencer: A very important comment that has been left out of the debate is the one you brought up. For many farmers the protection will be protection for themselves from some other individual, rather than for them being the guilty party. That point has been lost in a lot of the debate and in a lot of what has gone on.

9:20 p.m.

Hon. Mr. Riddell: My understanding is that the average cost of a cleanup of an agricultural spill or anything that can be related to agriculture has been about \$2,000. According to my understanding, the maximum has been \$10,000. I guess that is the reason I really cannot share your concern too much because it has not been that much of a problem in the past. You can be sure that owners and transporters are going to take every precaution possible to make sure there will not be a spill. There should be none of this business of a transport going along the Trans-Canada Highway with its tap partly open spilling polychlorinated biphenyls on the cars that are trailing it and then pulling off to the side of the road, or wherever he pulled off, and continuing to let the stuff go down.

If it takes extreme measures such as absolute liability to clean up that mess, then I say the Minister of the Environment has made the right move. We can no longer allow that type of thing to happen.

Mr. Barlow: The Ontario Trucking Association, in its brief to the environmental commission—I cannot remember the title—that held hearings throughout the summer, agreed and accepted liability for the initial cleaning up of the spill. That was no problem at all. As haulers, they feel they are responsible if they dump a load. It was the absolute liability factor that concerned the trucking industry. I know we are getting off topic and I do not want to elaborate on that because this is not the format for that particular area.

However, the minister brought up the subject of the load going up there and there is no question that trucker should have been responsible for that. The trade association of the trucking industry agrees the hauler should be responsible for the cleanup. It is the absolute liability that is the problem, where all sorts of other liability could be dumped upon the trucker, although under common law he had no involvement or responsibility for anything beyond the cleanup.

That is what concerns the farmer or anybody involved. Even the farmer who does not get involved in the trucking of his own fertilizer or anything, everybody is going to be paying more because of this absolute liability; for our car insurance and everything. This is a concern about which I want to get some answers. If the government cannot provide them to me, I shall get them from the insurance industry. I want to find out how much more it is going to cost me as an individual, or any person who could possibly

be tapped with some liability because of the proclamation of this bill.

Hon. Mr. Riddell: There is no question that any increase in liability insurance is going to be blamed on the spills bill, but I am not convinced the spills bill is going to lead to an increase in liability insurance. It is going to increase anyway. Would you be surprised if I told you—and I was warned of this tonight; I do not know how true it is—that the insurance companies now are going to refuse to insure greenhouse crops?

Mr. Barlow: I have not heard that, no.

Hon. Mr. Riddell: I heard that tonight. These insurance companies have to—

Mr. Stevenson: Now is the time, let us go. Let us go for it.

Interjections.

Hon. Mr. Riddell: These insurance companies are making some very large payouts in connection with settlements that are being made by the courts and there is no question they have to raise their insurance premiums. In the case of the greenhouses—I hope the person who told me about it was wrong—they consider the payouts have been so substantial they do not think they will be able to carry on insuring those crops.

There are all kinds of problems. It is not just the farmers who have to cope with the spills bill; a lot of other people are going to have problems with insurance companies as well.

Mr. Barlow: I will not belabour that.

Mr. Chairman: Are there any more questions of Mr. Spencer while he is at the mike?

Mr. Stevenson: He has not really started yet. He came up to talk about the eastern Ontario subsidiary agreement. I would like to make a couple of brief comments on what we have been talking about and then we will go to EOSA, if we may.

First, just another comment on insurance and the spills bill. We were talking tonight with a person who has a fleet of about 30 vehicles and has a fuel business. Normally, the insurance companies in the town where he lives are lined up trying to get his business. It has been that way every year. This year, he was not happy with the cost of the insurance that was offered to him, so he talked to some of the other insurance companies in town that have been after his business for years and there is not one of them, not one, that will even talk to him. The only insurance company that is willing to do business is the one that has been carrying this insurance.

Mr. Barlow: At their price.

Mr. Stevenson: Yes.

As to the other situation, I know of at least one company that is fairly reputable and has well-trained drivers hauling liquids. They are now thinking very seriously of selling off their fleet and going to independents. I have some great doubt as to whether the independents are going to do a better job than their own fleet.

I think we are going to see a number of changes and, unfortunately, I am not sure they are all for the benefit of the environment.

Hon. Mr. Riddell: Could the member tell me their price and by how much it was raised?

Mr. Stevenson: He did not tell us but we all know the person fairly well so it would be very easy to find out.

Mr. Barlow: It would be fair to say the fact that his insurance is going up has nothing to do with the spills bill. That still has to be added, which is going to change the figure again.

Mr. Villeneuve: The member may be right about the clean-up problem. Bring them to the courts. Involve some solicitors and a judge and we can put the multiplier effect in there many times. That is the problem.

The New Democrats often say, "Let the rich pay." They are not the farmers, sir.

Hon. Mr. Riddell: It could well be the farmer who was the recipient of this chemical too, but the member is quite prepared to have him pay. Do not deny it. He is quite prepared to see that person, who is the innocent victim in this whole thing, pay the shot for the cleanup until such time that liability is assessed, whenever that may be.

Mr. Villeneuve: The minister knows that companies will be able to afford, as always, good lawyers and build it into their costs. It was the same way when there was a rumour the price of petroleum was going to go up in the budget. What happened? It went up at the pumps the next day. They blamed the government. It was not even law or anything and up it went. The same thing will occur here and the farmers basically will be paying the large portion. The consumers will pay the rest.

Hon. Mr. Riddell: That remains to be seen. I do not happen to share that view. If a lot of these trucking companies are thinking of getting out of the business, all I can say is maybe this would be an opportune time for the member for Durham-York and I to get into the business and we will make a mint.

Mr. Stevenson: I think I will look at some other area to invest the pennies I have.

I have one more comment here. In the area of fuel alcohol, I understood the minister to say it was a Canadian regulation on vapour pressure measurement. It was my understanding that is an Ontario regulation in our own Ministry of Consumer and Commercial Relations.

Interjection.

Mr. Stevenson: I do not know, I thought we had control. In that method of vapour pressure measurement, I understand that if the temperature is changed a little bit, just altered by a few degrees, it meets the requirements. I also understand that vapour pressure measurement technique is being used in the United States, mainly only in states where there is a very high ambient temperature. I believe Arizona uses it but I am not sure how many more.

Most of the midwest states are using another method of vapour pressure measurement on fuels, as does western Canada. That is what makes me think it is probably a technique that is sanctioned by Canada, but I think Ontario has a choice on which technique it uses.

9:30 p.m.

Mr. Riddell: We will try to get more information on this, but it is our understanding that the companies would have to produce a tailored gasoline for use with the alcohols in order to meet Canadian general standards or specifications.

Mr. Stevenson: My only information is that when Mohawk tried to sell their brand of gasohol in northern Ontario and thought they had approval for it, I am almost positive it was an Ontario regulation which stopped them.

Hon. Mr. Riddell: We will look into that.

Do you want to comment on the eastern Ontario subsidiary agreement?

Mr. Spencer: The eastern Ontario subsidiary agreement, as you realize, was a federal-provincial cost-shared program. To put that in place, we had to have a federal-provincial agreement. It was called an umbrella agreement. It was Canada-wide and it was called the general development agreement. Once that was in place, we could have the subsidiary agreements under it.

The umbrella agreement expired quite some time ago, so when the eastern Ontario subsidiary agreement expires there is just no mechanism to have that kind of an agreement again. We have had a lot of benefits under that agreement, but that specific type of agreement is simply not possible. There are negotiations for some type of

replacement, more likely to be economically oriented; but that is at a very early stage.

Mr. Stevenson: When do you want to discuss the transition policy that was announced today? Do you want to wait until we get to the later vote?

Mr. Chairman: I would suggest we do. There are some other members who want to get in on this first.

Mr. Stevenson: I still have one other topic I want to talk about, but I guess it is not my turn.

Mr. Chairman: No. You have been most patient.

Mr. D. W. Smith: Mr. Villeneuve was talking about the consumer always having to pay more, but that has always been there. It does not make any difference what we talk about. When banks decide to raise interest rates, they all do it and we all pay. Insurance premiums are going to go up and we are going to have to pay again.

It is the job of the Minister of Agriculture and Food, his staff and the members to try and get the farmers a few more bucks at the bottom end to make this economic system we have work. Regardless, everything comes back to the consumer. If the Treasurer (Mr. Nixon) puts an added tax onto the corporations they are going to increase the price of their product, so the consumer is going to pay there as well. It does not make any difference what we do, the consumer always pays. Everybody is a consumer at some level.

What I really was going to ask in the first place, is on page R12, main office: does that mean 801 Bay Street? How much do we go into these figures? I am new. I am just asking dumb questions, but when do we get into discussing those figures or do we ever?

Mr. Chairman: Your questions are not at all dumb. This is the time to ask questions on anything to do with 801 Bay Street, or general policy as set down by the ministry.

Mr. D. W. Smith: The main office is 801 Bay Street?

Mr. Chairman: Yes, and on policies that flow from there.

Mr. D. W. Smith: What does financial and administrative services involve?

Hon. Mr. Riddell: I am going to have the expert in the field, Rita Burak, come up to field any questions the member may wish to ask on these specific parts of the budget.

Mrs. Burak: Actually, the main office vote includes a number of subitems: the salary for the minister and the parliamentary assistant and their

staff; funds for the Agricultural Council of Ontario, because it reports to the minister; funds for the deputy minister's office and my office; and money for the Farm Products Appeal Tribunal. "Main office" is simply the description used in every ministry's estimates to describe the minister, deputy and some central functions.

Mr. D. W. Smith: Have we been given the main office budget breakdown, or is this as much information as we will get?

Mr. Chairman: Could I be of some assistance? If you turn the next few pages you will see it is broken down further. That is a summary of programs and activities in the main office.

If you like, we can go on and then you can come back to that when you have had a chance to look through those subheadings. The first time through, it is difficult. We can come back to you. I am not trying to put you off at all.

Mr. D. W. Smith: That is fine.

Mr. Hayes: I was just sitting here listening to some of the members opposing the spills bill, especially the part about absolute liability. One would think people were going to start spilling more, if one wants to believe these types of arguments. I really think a number of chemical and trucking companies are going to be taking a great many more precautions than in the past if this bill goes through.

I can understand why some of the groups, especially some of the farm groups such as the Ontario Federation of Agriculture, are really concerned. We have good reason to believe they have been lobbied by insurance and chemical companies and also by the Canadian Manufacturers' Association, so I can understand why they have some fears.

Mr. Barlow: The OFA as well.

Mr. Hayes: It has been lobbied by some of these people. That is where a lot of the fear was thrown in. There is protection for the farmer in the bill and I know we all have that concern. We sat down with people and had that pretty well explained to us, if we really want to listen.

A comment was made that the New Democratic Party feels the rich should pay. We believe the people responsible for that PCB spill should have been the ones who cleaned it up. It should not have been up to the rest of the people in this province to take responsibility. We also believe the people responsible should have taken immediate action to compensate people who had PCBs spilled on their cars.

I have a question while I have the floor.

Mr. Chairman: Go ahead.

Mr. Hayes: I wanted to ask the minister about grain elevator licensing. In my riding, there are a couple which are not licensed. Some farmers are really concerned because the elevators are in close proximity and they would prefer to use them, but when they find it is not licensed, they have to travel further. That is just one concern. What are the minister's plans to ensure all of the grain elevator operators are licensed?

9:40 p.m.

Hon. Mr. Riddell: I would like to call Dr. McDermid. We are changing some of the criteria and some of the dates by which these elevator operators have to be licensed. At present, it seems to me the final date is about the time we are harvesting crops, so we are going to move that ahead.

Dr. McDermid, do you want to respond to some of the concerns about the grain financial protection program?

Mr. Chairman: I am trying to get you to focus on the proper votes. This is not to be unduly rigid, but to focus on each of the votes. We are a third of the way through the estimates time and we have barely started the first vote. This belongs to the second vote.

Mr. Hayes: I did not want to ask these questions in the middle of the vote. I would like to get them out of the way and then we can get on with the estimates.

Mr. Chairman: You are irresistibly persuasive.

Hon. Mr. Riddell: Dr. McDermid might have been out of the room when the member first raised his question. Apparently there are some grain elevator operators in Mr. Hayes's part of the country who are not licensed and who continue to operate without licences.

Dr. McDermid: We have the Grain Elevator Storage Act. The elevator operators are licensed under that legislation. It requires grain elevator operators to ensure that at any given time they have on hand an amount of grain equal to the aggregate of the amount recorded on the storage receipts that are issued. Beyond that, we have the grain financial protection program. I believe it is the licensing of dealers under that program that is your concern.

As the minister indicated in answering concerns raised by Mr. Stevenson, the licence-year for the grain program is exactly the same as that of the beef financial protection program; it is September 1 to August 31. That means we have a very large number of licences, essentially 900

licences, expiring at the same time and it is just not possible to deal immediately with all the applications for renewal.

Of course, the main condition relating to licensing is proof of financial responsibility. That means the examination of a lot of financial documents in detail. Sometimes the documentation is not complete and that means the applicant must be contacted for further information. The financial protection unit that does the financial analysis work may find that an applicant does not pass on the basis of financial strength and that security is required. Therefore, there is a waiting period for security to be submitted.

The minister has recognized the problem we face with licensees not being required to apply until just at the end of the licence year, meaning we have a great abundance of applications to handle. He has previously indicated it is our plan to change the regulations so the licence year will be from July 1 to June 30. In addition, it will be required by regulation that applications for renewal of licences be submitted no later than April 30.

There will be a full two months before the commencement of the licence year in which our financial protection unit can analyse the financial documents. We will have additional time and we will not be clashing with the beef program; we have to give equal attention to the applications we receive from dealers in connection with that program. We hope we will be in a position to have licences out before the commencement of the licence year. If not, we still have a couple of months in July and August before the commencement of the soybean and corn harvest.

The fact that the licences are not in place before the harvest commences has been a concern of the Ontario Soya-Bean Growers' Marketing Board and the Ontario Corn Producers' Association.

I would point out that where a licensee makes application for the renewal of his licence before the licence year terminates, by submitting the application for a licence along with a licence fee and a completed financial responsibility form, that applicant is placed in a deemed-to-be-licensed category. In other words, the old licence, in this case the 1984-85 licence, continues in effect into the 1985-86 licence year. Officially such elevator operators or dealers are licensed and thus protection is afforded to producers.

Mr. Hayes: Thank you. I will not ask a supplementary, because we have to get on with these estimates.

Mr. Ramsay: I was going to get back on to this, if you did not mind.

Mr. Chairman: That will be in order.

Mr. Ramsay: Following on some of the questioning we have had previously, just for curiosity, what is the cost of running the minister's office and things such as that? Are there any breakdowns of that?

Hon. Mr. Riddell: Mrs. Burak, would you like to come up again to field these questions?

Mrs. Burak: I have a breakdown which includes funds for both the minister's and the parliamentary assistant's offices. That also includes the grants that are named and listed under the main office account. That total is \$930,300.

Mr. Ramsay: What sort of subheading, though, say on page R-13? Salaries and wages?

Mrs. Burak: Salaries and wages are \$447,200; \$246,300 is a combination of transportation and communications, services and supplies and equipment; \$236,008, the figure listed on R-13, is for named grants.

Mr. Ramsay: Legal services. These seem to be mundane questions. I was wondering how many lawyers we have and what they do for that money.

Mrs. Burak: We have a director of legal services, three legal officers and two support staff. They are actually on the payroll of the Ministry of the Attorney General and seconded to us. The payment that we transfer to the Ministry of the Attorney General is listed under services, under item 6 of vote 2101.

Mr. Ramsay: How are the transfer payments to the various farm organizations determined? Are they based upon requests from the various groups or has there been some sort of historical contribution made to these?

Mrs. Burak: By and large, many of these have been given to the same organizations for a number of years, based on requests we receive.
9:50 p.m.

Mr. D. W. Smith: Do they get an automatic increase in the same way as wages would go up? What are the criteria for these groups, the 4-H Clubs, for instance, and horticultural councils?

Mrs. Burak: There is no automatic increase given to these grants but from time to time the minister receives requests for additions and, where possible, that accommodation is made.

Mr. D. W. Smith: Of that total at the bottom, which I presume is a total of transfer payments, \$236,800, has that figure changed much in the last five years?

Mrs. Burak: That is something I can get for you. I do not have the information here tonight but I would be pleased to provide that.

Mr. D. W. Smith: I notice that you give to the Royal Agricultural Winter Fair but there is no heading here for the Canadian National Exhibition. Is there a grant or anything made to it, if not through this ministry, through any ministry?

Hon. Mr. Riddell: I cannot speak for the other ministries but no grant is given through our ministry.

Mr. Stevenson: I have a few comments on the individual votes. I still have one general issue that I would like to raise.

Mr. Chairman: By all means.

Mr. Stevenson: I suppose the issue is the United States farm bill and I would like to ask a few questions of whoever is most up to date on that.

Hon. Mr. Riddell: That is Bob Seguin.

Mr. Stevenson: We are here talking about policies and legislation and so on affecting agriculture and quite likely the policy and the legislation that will most affect Ontario agriculture over the next three or four years will not even be passed in Canada, let alone Ontario; it is going to be passed in the United States. I do not feel we can let these estimates go past without talking about something as critical as that legislation is to our Ontario agricultural economy.

In general, I would like some appreciation of where that bill is at. Is it likely to be passed just before Christmas as usual? The subject area in which I am most interested is what is likely to happen to the target-price situation, the loan rate policy within that bill relating to corn, for example. Let us go that far for now.

Mr. Seguin: As you noted, the US farm bill does make a substantial impact on not only North American agriculture but also global agriculture by setting a tone for US farm policy. It sets what global farm policy can or cannot be.

In response to your question about the timing, the House of Representatives has passed a farm bill which it considers to be within the budget target set by Congress. The Senate now is debating its own farm bill but the numbers it has come up with, with respect to total dollars, are away over the budget resolution. The concern is that unless the Senate and the House can come to some agreement in a conference at the budget level that is agreeable to the President, the President will veto the bill in spite of the fact that it is talking about major budgetary expenditure.

They are looking at a budget of \$35 billion over three years.

However, from our readings of US farm policy, the President of the United States considers this to be one that can grossly inflate over the years. Unless he puts his clamps on farm expenditures, he has very little control over the rest of the budget.

The concern, though, is that the crisis within the farm economy in the United States is such that farmers must have some sort of protection. As has been noted here by the minister about the concern for our provincial farm economy, the farm economy in parts of the United States is in worse shape than it is here.

In respect to your exact question on the farm bill, I worked for the agriculture outlook paper we presented at the outlook conference.

Mr. Stevenson: Which paper is that?

Mr. Seguin: This is our own paper, the background paper we presented. We do not speak to the topics at the outlook conference in terms of the actual outlook. We find that most participants are more interested in policy aspects rather than specific details.

Both the Senate and the House are looking at freezes on target prices and loan rates. For the members of the committee, the US government will make up the difference between the loan rate for a bushel of corn and what it perceives to be the target price. Over the past five years, the US government has spent some \$70 billion through various programs such as this to assist the US farm economy. They are going to look at US\$3.03 per bushel target price for their loan rate for corn.

Mr. Stevenson: Is that about C\$4?

Mr. Seguin: It is more than C\$3.50, allowing for the exchange rate aspect.

Mr. Stevenson: Would you have to add transportation costs? If you price corn at Toledo at the American price and the equivalent corn landed here, it would be a lot more than—

Mr. Seguin: The exchange rate would incorporate the transportation difference as well, but then the market prices will not go to the target price. The prices will probably drift down towards the loan rate. Perhaps I can find that figure for you.

Mr. Stevenson: The old loan rate was \$2.50 or \$2.55 or something such as that.

Mr. Seguin: It is \$2.55 per bushel and they are considering lowering it to \$2.42 per bushel. Essentially, that would mean a price floor would

be set by which farmers would put their grain into storage and receive \$2.42.

Mr. Stevenson: Only a few weeks ago there was a fair bit of press play about actually eliminating the loan rate so that the bottom price would fall to whatever. Evidently that is not the indication you are getting. You expect the loan rate to be about what it has been.

Mr. Seguin: With the concern over farm incomes throughout the United States, I guess the feeling in Washington is that it cannot afford to drift very far from the present farm bill, in spite of the fact it has cost an excessive amount of money over the past five years.

There was a proposal to free them from the target-price, loan-rate program and go to another program where farmers could pay back whatever the market was at the time, if it was far lower than what they had received from the government. There also is a case where they could gradually move away from this and get a per acre payment from the government. Then the farmers could decide how they want to market their product. It seems neither of these program proposals will go far because there is concern that farmers need to be protected by some floor set by legislation.

Mr. Stevenson: As to the target price, I understand that the farmers sign up their usual acreage and if they agree to take—is it a 10 per cent cut?

Mr. Seguin: I believe so.

Mr. Stevenson: Then they are guaranteed that target price for their allotment.

Mr. Seguin: That is correct if they put the corn in storage and make use of the program.

Mr. Stevenson: Therefore, certainly at current rates, that \$3.03 is a very favourable price.

Mr. Seguin: Yes. That is what has concerned the US administration and the budget people. It is so far above current market prices that they are going to spend a considerable amount of money in deficiency payments to the corn growers and soybean growers in the United States.

Mr. Stevenson: The farmers are going to continue to grow more corn and it is going to be easy to market.

10 p.m.

Mr. Seguin: It is going to be difficult to market. It is such a higher floor than what the market would suggest that US producers are finding themselves uncompetitive in normal markets, particularly export markets. In fact, during the winter one major US exporter imported grain to New Orleans. The only reason

he ceased to do so was because of the public uproar, "Our grain bins are bulging and you are importing corn." However, it was cheaper to import the corn into the United States than to take it out of storage.

Over the years, it has become a very costly and expensive program to run, but the US administration finds its hands are tied at the moment to try to break away from it.

Mr. Stevenson: I have one other question in this area. Not too long ago there was a fairly extensive article in the Canadian press suggesting that the Americans might go to a two-price system for corn and wheat—if I remember correctly; it could have been soybeans. Farmers would each be given an allotment as their percentage of the domestic market based on their recent corn acreages. From that, they would be allocated a domestic slice and would be guaranteed a price for that portion of their production. Should they produce more, they would take whatever they could unload it for wherever they could find a market.

In a sense that relates to my earlier comments. That is almost equivalent to their current target price based on a domestic allotment and then the loan rate being almost totally taken away. Those two programs would be approximately equivalent.

In a way I am repeating my question, although I never thought of it that way until I was halfway through it. As far as you are aware, that particular line of policy discussion has been dropped, at least at present?

Mr. Seguin: As you mentioned, a line of policy thinking was proposed. It did make it into the House of Representatives and was almost into the farm bill before it was voted out again. The concept was that you would produce for the domestic market and get a certain price. If you produced more, you took the world price, whatever that was. That required a certain amount of change in the program, such as controls on acreage that farmers would be willing to accept to get the higher price.

A fair number of members within the House of Representatives decided not to pursue that and continued with the present target price loan concept. But it did reach the House and went through a fairly thorough review.

Mr. Stevenson: My concern would be that if they should happen to go that route, from my limited understanding of the repercussions here, it would have a disastrous effect on the price of the crop here in Ontario if that loan rate was

eliminated, especially in years when they have a substantial crop down there.

Mr. Seguin: Yes, if the Americans did pursue that kind of policy where they would export and take whatever they could get for it, and given the surpluses they have in storage which are likely to come out this year, they would disrupt not only our domestic prices but the entire global feed grain markets. You would probably end up with protectionist measures by other countries trying to balance out. The present policy protects other countries in a way by setting a certain level of price floor that people can see and trust.

Mr. Stevenson: Do you as a ministry have very good data on how our Ontario producers adjust to a long crop in Ontario? Do you have any sort of historical figures on how that quickly translates into increased hog feeding, beef feeding, grain into beef or how the Ontario producers try to adjust for a long crop?

Mr. Seguin: We do not have any specific study that addresses what you are asking. We have over the years collected statistics which would show, if you looked at them properly, that producers tried to match market trends with respect to marketing strategies by feeding through, increasing storage, using basis contracts and putting grain into their own on-farm storage versus elevator storage. You can track that over the years to see if it shifts but you would have to go back to see what the corresponding prices levels were for those years. That could be done.

Mr. Stevenson: I do not want to take too long on this. As you understand it, the US farm legislation that could have substantial price effects here in the feed grain area is likely to continue approximately the way it has been for the last four years.

Mr. Seguin: Yes. As you mentioned earlier, it is likely to be passed just before Christmas, as it seems always to be, every four years.

Mr. Stevenson: Furthermore, the support price benefits that American farmers receive from those crops are also likely to be similar to what they have been in the past.

Mr. Seguin: Yes, again, they are likely to be the same.

Hon. Mr. Riddell: The irony of the situation is that they will countervail our pork products because they feel they are highly subsidized in this country, but look what they are doing as far as corn is concerned. It is very difficult to fathom, but that is the way it is.

Mr. D. W. Smith: This is more of a supplementary. Mr. Stevenson caught me a little off guard there. I am not sure how he started his question. Did he say we were tied to the American market or our prices would not be settled until the US government settled its prices?

Mr. Stevenson: I do not know that I put it in quite those words but that is very close to being true, yes.

Mr. D. W. Smith: I know the United States, whether it will admit it or not, subsidizes its products to about 32 per cent. I do not know whether it would have to be at the provincial or federal level, but I cannot see why our government cannot put a countervail.

In my area there are elevator operators who say they cannot get some of the farmers to release their corn towards the end of the old crop year. Why can we not put a countervail on American corn coming in? I understand it would have the effect of raising our price in Ontario. Whatever the countervail tariff we might put on American corn, it would force up the price of our domestic corn. At some point it would stabilize, but I do not know where that would be.

Somebody has to realize at one level of government that in Canada we are subsidized to an average of about 12 per cent, while in the United States it is about 32 per cent and in the European Community it is about 38 or 39 per cent. We have to start countervailing back to them in order to protect our domestic farmers.

When I listened to Mr. Stevenson, I do not know if I caught his question correctly, but it seems we are more Americanized than I really thought we were. We have a basis difference over the Chicago price, which is the amount of money difference plus transportation and a few storage costs or something like that.

Listening to the answers, it seems we could do something to countervail on corn and possibly soybeans. Elevator operators will buy from the United States if they cannot get the Ontario farmer to release his crop because the price is too low. I just wanted to hear some comments on that.

Hon. Mr. Riddell: We will ask Mr. Seguin to comment, too. I believe the Canadian Pork Council and the Canadian Meat Council are working on a countervailing program now, are they not?

Mr. Seguin: Addressing the minister's comments first, the Canadian Cattleman's Association is taking countervail action against European beef imports. They are proceeding with that process. The corn producers' association is

undertaking a study at the University of Guelph to examine the impact of the American feed grain program on Ontario markets, with the idea that it might take countervail action on this.

Countervail action would have to be at the federal level, but it would be taken by producer groups or organizations or processors that were damaged, having used the system and followed it through, as the Americans did with the National Pork Producers Council.

Mr. D. W. Smith: So it cannot be provincial; it would have to be federal.

10:10 p.m.

Mr. Seguin: It would be a group taking action through the system. The governments themselves would not do it. In the case of pork in the United States, it was the National Pork Producers Council that took the action and then it went through the US system. It was not the US government that did it. It is the same here. A producers' group or a processors' group would take action.

Mr. D. W. Smith: The state governments, though, helped initiate it as well.

Mr. Seguin: What started the ball rolling was a federal election for a senator in the state of Iowa. The issue was debated around and it seemed to carry enough weight with the Iowa pork producers that they got together and entered the action that way. But there was no federal or state backing of the pork council. It is not allowed under the system.

Mr. Chairman: Are there any more questions of Mr. Seguin?

Mr. Ramsay: Not of Mr. Seguin but of the minister.

Mr. Chairman: Thank you, Mr. Seguin.

Mr. Ramsay: Being consistent with the free-running style of these estimates, I would like to ask another question, you can say out of left field, if you will excuse the analogy.

Has the minister been able to reach an agreement with the Ontario tobacco growers so that they could have provincial marketing powers. I know you have been in very close contact with them, but because the situation has been so blocked through federal court action there seems to be no way to get that federal marketing agency through. I know they would like to get a provincial agency. Is there anything we can do for them?

Hon. Mr. Riddell: I believe the tobacco growers met with Mr. Wise either yesterday or the day before. I have not heard the results of that

meeting. They were, once again, applying pressure for a national agency.

I believe Mr. Wise told them there would not be a national agency in place for this year's crop. I am sure he is urging the tobacco growers and the manufacturers, as I am, to get back to the bargaining table and negotiate a price, to send a signal out to the market that the auction will start, we would hope, January 1. If we do not send a signal out that the auction will open, we stand to lose \$10 million in tobacco exports.

I am strongly urging the manufacturers and growers to get back to the table and negotiate a price. How far back was it, Dr. Switzer, that I brought the both sides together? They were not even talking.

Dr. Switzer: It was about three weeks ago.

Hon. Mr. Riddell: I think it was longer than three weeks ago. They were not even talking, so I brought them back together. We agreed on items which were negotiable. I thought we were making real progress but things have happened in the meantime.

The federal minister has indicated he is prepared to go to the extent of \$90 million, I believe, by way of advance payments, which originally were around \$35 million or \$40 million. I indicated to the tobacco growers that I may consider provincial agency powers providing they could agree on certain terms that I was prepared to lay down. I do not know whether it is because of a combination of what the federal minister has done, or is prepared to do, and of what I may be prepared to do, that they seem to have got away from their negotiations once again. But I have a feeling they are going to be coming back to the table. Is it Saturday of this week? When are the manufacturers and growers going to get back?

Dr. Collin, perhaps you could comment on where the situation stands at the present time.

Dr. Collin: Negotiations were active last Thursday and Friday. Both sides agreed last week that they had made progress in both the price and the size of the crop to be marketed. The manufacturers asked for a recess to go to Ottawa to see the terms and conditions of the \$90-million advance payment. They went to see Mr. Wise on Monday, and we expect the manufacturers to ask

for a meeting of the negotiating committee again very soon, possibly next week.

Mr. Ramsay: The point I want to make is that the growers in this province really are at the mercy of the cigarette manufacturers. They should have the power to market their own product. They get calls every third day from Egypt, for instance. They would take the whole crop. There is a lot of potential there in Arab countries to market our crop.

In some cases we might even have to use part of the barter system, but we could keep an industry going in that portion of southwestern Ontario. There is a market for it, but the way things are going now, the cigarette manufacturers are going to be pulling out of here in a few years and maybe importing from Brazil.

Hon. Mr. Riddell: I do not think, Mr. Ramsay, that agency powers are the major issue nor the key to marketing of the 1985 crop or future crops for that matter. I think the national agency is the only way to go.

For this year, I feel the only way to go is to negotiate a price and get that auction opened, and then let us see what we may have to do for next year's crop. I hope they will get their national agency. This is what they are striving for. This is what they want.

I am getting quite a few calls from tobacco growers who are saying that they do not want provincial agency powers. It is not going to do their business any good. We have to look at it very carefully, but I would strongly urge the two sides to get back together and negotiate price and volume.

Mr. Chairman: I would remind members that the bells are ringing for a vote on tax bills in the chamber. We have a choice. We can either pass vote 2101, items 1 to 7, or we can leave it in abeyance until we next meet on Tuesday, November 19, at 8 p.m. What are the wishes of the committee?

Mr. Stevenson: I have a brief comment to make on each one of those separate items.

Mr. Chairman: No problem. We stand adjourned until Tuesday, November 19, at 8 p.m.

The committee adjourned at 10:19 p.m.

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No. R-16

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development

Estimates, Ministry of Agriculture and Food

First Session, 33rd Parliament

Tuesday, November 19, 1985

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, November 19, 1985

The committee met at 8:06 p.m. in room 228.

ESTIMATES, MINISTRY OF AGRICULTURE AND FOOD (continued)

On vote 2101, ministry administration program:

Mr. Chairman: When we adjourned a couple of weeks ago, we were on the very first vote of the estimates. There are 11 hours and 25 minutes remaining in this estimates debate. Given that we are still on the first vote, I suggest to the committee we proceed without delay to that first vote.

I believe, Mr. Stevenson, you had some remarks to make.

Hon. Mr. Riddell: Before Mr. Stevenson comments, I am having a little difficulty regarding tomorrow morning's sitting. I have a number of agricultural issues coming before cabinet, all of which are extremely important to the industry. I am wondering if we could agree to postpone tomorrow morning's sitting until another time, as it will take a lot of cabinet time to discuss some of these matters.

Mr. Chairman: If the committee wants to, I assume we can agree not to sit tomorrow morning and to sit Thursday night as usual. We would run into conflicts if we tried to sit at other times. Tomorrow afternoon, for example, we would run into conflict with other committees.

Mr. Stevenson: As long as the minister can guarantee that the results of tomorrow's cabinet meeting are going to be very positive for the agriculture industry of Ontario, I am sure we would be quite happy to allow him to go to cabinet.

Mr. Barlow: Perhaps he might like to share them with us now.

Mr. Chairman: If the committee so wishes, we can write off tomorrow's committee meeting and meet on Thursday night as usual. To do anything else would require permission from the House, because we are authorized to sit on Tuesday nights, Wednesday mornings and Thursday nights.

Hon. Mr. Riddell: I want to thank the committee for that permission and I hope it will be positive.

Mr. Stevenson: Before you get into the vote, I wonder whether you could give us a two-minute update on tripartite stabilization. If I interrupted something, carry on with that.

Hon. Mr. Riddell: We received a red meat agreement from Mr. Wise at the end of last week. We were not satisfied, however, with the retroactive payments provisions in that agreement and we could not understand his reason for making the effective date January 1, 1986, rather than October 1, 1985, which he had indicated time and time again he would do.

So we sent a telegram off to Mr. Wise immediately after receiving his telegram, asking him in writing how he intended to provide for the retroactive payments; whether it would be a 90 per cent payment under the federal Agricultural Stabilization Act on a quarterly basis, a half-yearly basis, or a yearly basis; whether it would apply to all the pork marketed in those quarters where there would be a payment; or whether it would apply to all beef that was marketed in those quarters where there would be a payment under tripartite.

Just yesterday, around noon, we received a news release from Mr. Wise indicating he would go ASA 90 on a quarterly basis, but only for domestic pork. He did not intend to make retroactive payments on pork which was exported.

We are ready to sign an agreement. Mr. Wise has to go to his cabinet with an order in council and I will be going to cabinet with an order in council as well, to get permission to go ahead with an agreement. That is about where it stands at present. We are ready to sign. I would like to think we could make arrangements to sign at the end of this week. I do not know whether that would be possible, but if it is not this week, I am hoping it will be next week.

Following the signing of the agreement, there is no reason we cannot immediately start to process the retroactive payments. Here again I would like to think we could have those payments out to the farmers before Christmas. This is assuming that everything goes smoothly.

Mr. Stevenson: Do you have any idea, say, within a buck, of what those payments are likely to be?

Hon. Mr. Riddell: I cannot say at this time; I have to wait for a cabinet decision, as you can well appreciate. It does mean quite a substantial sum of money from the province. There would be no sense in my providing you with any figures at this time. I hope I can have them for you very shortly.

There were three questions asked for which I have responses if you want to take a minute; it will not take long. The first was, what was the level of funding of name grants over the last five years? This was a question posed by Mr. Smith. One of my staff or the clerk could hand out a copy of the name grants; the distribution table that is being handed out shows the estimates provisions for name grants over the last five years.

The name grants are basically tied to association membership. There are exceptions to this, such as the Ontario Soil and Crop Improvement Association, which you will note has received a substantial increase in recent years to promote better soil management. In the 1985-86 estimates, you will also note the split in funding between the Ontario Soil and Crop Improvement Association and the Ontario Seed Growers' Association. This was a mutually agreed upon split to get the Ontario Seed Growers' Association off the ground.

Another question asked was, are the vapour pressure regulations governing sale of fuel alcohol set by provincial standards. This question was asked by Mr. Stevenson.

The response is that the Canadian General Standards Board, not Ontario, sets the specifications for gasoline, including the Reid vapour pressure, a measure of the evaporative emissions from gasoline. Ontario requires that all gasoline sold in the province conform to the specifications set by the Canadian General Standards Board. Ethyl alcohol and methyl alcohol used in gasoline to enhance the octane rating increase the Reid vapour pressure. When it is added to our normal gasoline, the Reid vapour pressure is then higher than the Canadian General Standards Board's specifications.

One method to overcome this problem is to produce a tailored gasoline with a lower Reid vapour pressure so that when the ethyl-methyl alcohol mixture is added, the increased Reid vapour pressure is still within Canadian General Standards Board specifications. The major added cost is that of additional storage, transportation and sales facilities for yet another grade of gasoline.

Finally, the question was asked, should the ministry be monitoring chemical prices to

determine the impact of the spills bill on the farmer. This question was posed by Mr. Ville-neuve.

The Ministry of Agriculture and Food has been regularly monitoring prices of farm chemicals for a number of years and will continue to do so. Pesticide prices are collected annually from the manufacturers by staff of the plant industry branch. The economics and policy co-ordination branch is monitoring the prices of 13 fertilizers and 14 pesticides annually for inclusion in cost-of-production studies.

OMAF does not expect any significant impact on the prices of agricultural chemicals because of the spills bill. However, we will continue to monitor any changes in prices after proclamation of the bill. If there are indications of an adverse impact on chemical prices, an in-depth study could be initiated to determine the validity of the situation.

Mr. Chairman: We are still on vote 2101. Are there any questions or comments on vote 2101, items 1 to 8? Shall items 1 to 8 carry?

Mr. Stevenson: Just a minute here. When we talk about the number of personnel and so on, I assume that comes under this vote, does it not? How have you adjusted personnel in head office to look after the Ontario family farm interest rate reduction program? Have additional people been hired? Who is carrying that load, how is it being carried and so on?

Hon. Mr. Riddell: Henry Ediger will respond to that, since he is working with the OFFIRR program.

Mr. Ediger: No new permanent staff were hired for the OFFIRR program. We hired about five casuals, who are currently working on the OFFIRR program, and it is being administered by existing permanent staff.

Mr. Stevenson: I am curious to know why you decided to make that program totally a head office program, unlike some of the others, where there is quite a lot of input from local OMAF staff. This one totally bypasses the local inputs from OMAF and comes directly to head office.

8:20 p.m.

Mr. Ediger: Basically, it is a one-year program. Therefore, the benefit the farmers might get from counselling from agricultural representatives would only be a one-shot deal and there would not be the opportunity to follow up. It was decided that an application directly into head office to get the money out as quickly as possible would be more beneficial.

Mr. Stevenson: I cannot pass this vote without reading a few comments from a letter on the communications area into the record. This is an open letter to the Honourable Dennis Timbrell from one Jack Riddell, MPP for Huron-Middlesex. Here are two or three sentences from the letter:

"I must object most strenuously, both on philosophical and ethical grounds, to your intervention into the newspaper industry. Your government—indeed, any government in a democracy—has no business in this activity." Down a little farther it says, "Government newspapers and democracy do not go hand in hand." Over on the next page it says, "Your publication represents the ultimate form of junk mail."

I will leave it at that.

Hon. Mr. Riddell: Let me respond. There was a concern at the time when OMAF News was first coming on to the scene, and that concern was that OMAF might well be cutting in on some of the other farm publications, particularly if it was going to advertise. This was one of the concerns of the farm writers at the time, but that concern has been allayed, as you well know, because we do not do any advertising whatsoever in OMAF News.

At the Canada Farm Writers' Federation annual meeting, which was held here recently, OMAF News received the award of merit as the top corporate and institutional farm publication in Canada; so it was given the blessing of even some of those farm writers who had originally expressed objection to OMAF News. In their comments the judges said:

"All entries were well written. What set the winners aside, in our opinion, was superior understanding of the publication's purpose and the interest of the audience. The winner, OMAF News, provides volumes of useful information in a lively format. It is no wonder that 77 per cent of the farmers surveyed liked the publication."

I have already commented on this, inasmuch as people feel that OMAF News has taken on a new face, brought about by a change in government and a change in minister, a minister who insisted that it not be used for propaganda purposes and that the minister's face not appear in OMAF News any more than was absolutely necessary.

I am more interested in having OMAF News serve the purpose for which we feel it is intended, and that is to get information to the farmers as quickly as possible about government programs, assistance that farmers could capitalize on and

many other important matters pertaining to the agricultural industry. Sure, I had expressed the concern when it was first introduced but so did many farm writers who are now giving it their blessing. There is nothing wrong with changing your mind when something happens that is good.

Mr. Stevenson: I trust this last quote will not appear in the Ontario Ministry of Agriculture and Food news or then it will be the ultimate in junk mail.

Hon. Mr. Riddell: What is that?

Mr. Stevenson: I am curious. Have any producer groups or individuals with specific interest in agriculture ever submitted an article and had it printed in OMAF news?

Hon. Mr. Riddell: Is Dick Snell, who is in charge of our communications branch, with us?

Mr. Snell: No. The purpose of OMAF news is to be a publication of record of ministry programs and an extension tool for ministry specialists. It is not in competition with the private sector. We do not seek news from the private sector. It is clearly a ministry newsletter.

Mr. Stevenson: I was curious as to whether I might be able to submit an article. Actually, there would be no article without my picture on it.

In vote 2101, item 8, systems development services, I assume that relates partly to the fairly large database the ministry is putting together. Is there a published index?

First, how much of the information in that database is available for public access? Is there an index available that individuals or groups can use to call up some of that information for speech material or anything, or is that totally for OMAF use?

Hon. Mr. Riddell: For the purpose of Hansard, Henry Ediger will respond.

Mr. Ediger: Mr. Stevenson, there is probably very little on the database that is not confidential. The kind of information on it, for example, crop insurance, farmers' yields, how many dollars the farmer received under the beef program in 1980, grants and so on, is all confidential.

We do not give out lists of names for any purpose to anyone because that kind of information is confidential. There is not very much information on our data base that we make available to anyone or that we use for any other purpose except servicing the farmers.

Mr. Stevenson: For example, are there county summaries that you can whip up for minister's briefings at a moment's notice—

8:30 p.m.

Mr. Ediger: Anything that is published is available to anyone to read. A lot of that kind of information would be published in statistics and so on, which would be in print. That information is available to anyone and would appear in our annual statistics book as well.

Regarding the question you asked originally about a list of programs, I do not think we have a list that anyone has ever asked for, that I could put my hands on, but I could certainly make one available. They would be crop insurance stabilization, or the Ontario family farm interest rate reduction grant; that kind of information would be there.

Mr. Stevenson: As a matter of curiosity, is this system hooked up to telephone lines, to Guelph and so on?

Mr. Ediger: No, this is on the mainframe. Most of our programs are on the mainframe. They would not be available on the telephone.

Mr. Stevenson: Those are my comments on vote 2101.

Mr. Ramsay: Getting back to OMAF News for a minute, it reminds me of the childhood riddle we used to know. No pun intended, by the way. What is green and white and red all over? Except this one is not read all over; it is just green and white.

Mr. Rowe: Right down the middle.

Mr. Ramsay: Somewhere anyway.

In regard to vote 2101-4, I take it the advertising budget would be in that category since it has to do with all the advertising expenses. I am referring to a news release you put out two or three weeks ago about going into a tendering process for advertising firms. I was wondering how that process was getting along and if there were any anticipated changes or where you were on that process.

Hon. Mr. Riddell: Mr. Snell.

Mr. Snell: In answer to the honourable member, the advertising budget for Foodland Ontario is not in there. Foodland Ontario is a marketing program. There are people here who could answer that question, but the only advertising in there is approximately \$6,000 for modest ads which are more greetings than anything else.

Mr. Ramsay: I can ask it when it comes up in the vote. That is fine.

Mr. Snell: For your information, the call for the tender on advertising agencies has gone out from the central government advertising group, which is located in another ministry. They go out and ask for a long list. The long list comes in and

has to meet certain criteria, such as all the directors being Canadian, and what have you. That is short-listed and from the people on the short list they would have a creative presentation, at which time a panel of five chooses a new agency or continues the existing agency.

Mr. Ramsay: Thank you. That is all, Mr. Chairman.

Mr. Chairman: Are there any other comments or questions on vote 2101, items 1 to 8?

Items 1 to 8, inclusive, agreed to.

Vote 2101 agreed to.

On vote 2102, agricultural marketing and standards program:

Mr. Stevenson: We have significant marketing problems in at least three crops of particular note. Possibly the minister could bring us up to date on the situation in tobacco, where he anticipates tobacco sales will be going and how it is likely to be handled this year.

Hon. Mr. Riddell: Going back a few weeks, we brought the two sides together. They had simply reached a stalemate; they were not even talking. Both the manufacturers and the tobacco producers agreed there were about five items that were negotiable. After we got them talking, this injunction appeared on the report that was to be submitted to John Wise regarding a national marketing agency. The manufacturers objected to the cost-of-production formula.

That is one of the reasons they decided that not enough hearings were conducted for the satisfactory completion of that report. Once that injunction was placed on the report, the talks broke down again. You can understand there was a loss of faith in the manufacturers, on the part of the producers.

We have managed to bring the two sides together again. I stand to be corrected on this, but I understand they are going to be back at the bargaining table on Thursday this week. The manufacturers have a new proposal to make; the tobacco growers apparently have a new proposal to make. We are fairly optimistic that they are going to strike an agreement on price and on volume and, if they do, then we hope the auction will open by January 1, if not before. But an awful lot depends on what takes place this coming Thursday.

Maybe Mr. Duckworth can provide more detail, but I believe I am correct in saying that they are going to be back at the bargaining table on Thursday this week.

Mr. Duckworth: Yes. We are meeting at three o'clock on Thursday afternoon, and the

reading we have is positive, as you suggested. New proposals are coming to the table from both sides, and I am optimistic as well.

Hon. Mr. Riddell: If they can strike an agreement on Thursday, when might be the earliest that the auction would open, in your estimation?

Mr. Duckworth: Most likely the first of the year. The most critical point is to give a signal to the industry that the auction will be open, and that signal can be given almost immediately. Once that signal is given, then the offshore buyers can prepare themselves for purchases. But I doubt very much whether the auction will be open before the first of the year. The critical point is the signal.

Mr. Stevenson: I am sorry I missed part of that. Maybe you have already said this. What sort of volume are we talking about that has a chance of being sold this year?

Mr. Duckworth: The total volume to be marketed is 170 million pounds, but it is very difficult to say. The total volume that will be marketed depends on what will be sold offshore and the speed at which the auction is opened, so there is a variable there. It is pretty hard to pin down the exact volume.

We are optimistic that the tobacco growers will sell a considerable amount. I suspect there will be some carryover, but that is very difficult to predict at this point. It depends on the price and on when the auction opens.

Mr. Stevenson: In question period the minister once mentioned that he was considering giving agency powers on a provincial basis. Has anything come of that? What advantage would agency powers be to the tobacco growers on a provincial level at this point?

8:40 p.m.

Hon. Mr. Riddell: The growers are not quite as demanding of agency powers at this time as they are of getting the negotiations reopened and getting a settlement, recognizing that they will not have a national agency in place for this year.

I really think the growers were optimistic about having a national agency put in place for this year's crop, and I told them right from day one that I did not think it would happen. What I was recommending was: "Get back to the bargaining table. See if you cannot negotiate a price and the volume of tobacco to be marketed. Get the auction open, and maybe next year you will be in a position to get your national marketing agency."

They are more enthused now about going back to the negotiating table. It is not that they will not be talking about agency powers at a provincial level. They may still request them, but I think their main intent right now is: "It is time we got the auction opened. It is time we got a price agreed upon and also a volume."

Russ, do you want to say anything more about the sales agency at the provincial level?

Mr. Duckworth: No, I believe you stated it correctly, sir. They are not as adamant nor are they pushing as hard for agency powers at this time. It is directly connected with the national plan. They are just not pushing that issue. It is there in the background but there is no degree of urgency in the negotiations.

Hon. Mr. Riddell: When they asked for agency powers, they wanted to take possession of the tobacco and they wanted to be able to price it and sell into the export market. They were hoping, of course, an export consortium would be made up of growers and manufacturers, whereby if the manufacturers had an export market, they could take the tobacco and export it and if the growers found a market, they could also take the tobacco and export it.

The growers may have had some second thoughts about that. Somebody has to process that tobacco before they can export it. They are not in the business of processing tobacco, so they felt it was important to work along with those people who have expertise in the business of processing. As Mr. Duckworth says, they are not quite so enthusiastic about provincial agency powers at this time as they were.

You can understand that. They were frustrated. They were not talking. They had no idea whether they were going to be able to sell their tobacco. The manufacturers had indicated to me and to them as well that they could probably get by this year without buying any tobacco because they had the equivalent of a year and a half's supply on hand. Is that right?

Mr. Duckworth: Two years plus, they stated.

Hon. Mr. Riddell: Two years' supply on hand. They maintained they could get by without buying any Ontario tobacco this year, but they did not want to do that. They said, "God forbid we have to do that."

It has been a case where growers and manufacturers have been calling each other's bluff, but it has reached the point now where there are a lot of frustrated growers and I am sure there are a lot of frustrated manufacturers. They have reached the position now where they feel it is time to get down to brass tacks and start getting

some kind of a price and an agreement on the volume of tobacco they are going to try to purchase.

Mr. Stevenson: There were some media reports that one of the main tobacco companies would not be buying this year. Is there any truth to that?

Hon. Mr. Riddell: Rothmans had indicated it was not going to buy. Maybe you can bring them up to date on that. We have been trying to give them all the encouragement we could.

Mr. Duckworth: Rothmans did take a firm position at the outset of negotiations. Their current position is that they want to purchase Ontario tobacco and they will be part of the purchasing agreement provided it meets their specifications, but they are not resisting at this time. Earlier in the negotiations they did. They are part of the manufacturers' team.

Mr. Stevenson: Is this agreement that is coming up likely to include the same sort of financial assistance from the processing companies in exporting the tobacco into the world market as well?

Mr. Duckworth: That is a subject of debate. I would not like to suggest that there will or will not be. It is on the table and is one of the items under discussion, but there has been no agreement reached on that point. It is under discussion.

Mr. Ramsay: I thank Mr. Stevenson for deferring to me. It might expedite matters if the topic is brought up by the Progressive Conservative agricultural critic and we stay on topic. If I could bring in my questions on the same topic at the same time, it might make things go more smoothly; so I thank Mr. Stevenson.

Minister, the fact remains that tobacco farmers are captives of the multinational companies. They are not free to sell the product they grow to countries that desire it. Those countries do exist. They are tied in to making a deal with these companies. Is that not correct? They do not have that tool to market their product. How do you foresee the federal timetable of getting a national board? I know there is a court procedure to go through, but do you think that could be in place for next year's harvest?

Hon. Mr. Riddell: The growers intend to exert pressure on the federal minister to have a national agency in place for next year's crop. I must admit that I have not been talking to Mr. Wise lately regarding any decision he may make on a national agency, but he is prepared to be co-operative.

Any conversations I had with him earlier on this very subject led me to believe there would be no chance of a national agency for this year's crop but there would be time to work on next year's, after he had time to consider the Menzies report.

I do not know whether he had a chance to see the report before the injunction was placed on it. This was one of the reasons he was holding back. He wanted to see what the recommendations were before acting. Once he is able to look at that report—and I have no idea what is in the report either—it may well be that it will recommend a national marketing agency and Mr. Wise may put the wheels in motion.

Mr. Ramsay: If it appears before next harvest that there would not be a national agency, for whatever reason, would you consider at that time granting them provincial powers so they could form their provincial agency?

8:50 p.m.

Hon. Mr. Riddell: I indicated to them this year that, provided they met certain concessions, I would be prepared to get them agency powers. I am not convinced that is the way to go. I still think they should be striving for a national marketing agency. I do not think the manufacturers would concur with my opinions, but that is the only way for the growers to approach the matter for next year's crop.

Failing a national agency, I may have to reconsider agency powers at the provincial level provided they meet certain concessions I asked of them. I do not want to find all of a sudden that I have tobacco in my hands that I have to sell. If they want the authority to be able to take possession of tobacco and sell it, I do not want them coming back to me and saying: "Oh, my God, we cannot sell 100 million pounds of tobacco. You have to take it off our hands." There were certain other concessions I asked of them, and they agreed to them; I received a letter from them to that effect.

I was prepared to give them agency powers, but it seems to be down on the list of priorities right now as far as the growers are concerned.

Mr. Stevenson: If no one else is going to raise anything else about tobacco, I would like to get an update on the apple crop in Ontario. I understand the size of it is up considerably from last year. I would like also to get an update on what has happened about the possible movement of Ontario apples into Nova Scotia.

Hon. Mr. Riddell: Brian Slemko can answer your questions. I might say that we did have a

bumper crop of apples this year. Unfortunately, some of those apples are rotting in the fields for lack of a market for them. All the existing plants which squeeze apples into juice have been operating at full capacity and cannot handle any more apples.

There was the possibility of sending some apples into Nova Scotia. We ran into a bit of grief with that program back in 1982 when we sent apples to Nova Scotia. The juice that came back to this province undercut the price of our apple juice. We had to avoid that situation if at all possible.

Mr. Slemko, do you want to expound in more detail on this apple marketing business?

Mr. Slemko: Yes. As the minister indicated, the 1985 apple crop was a bumper crop, especially with respect to the juice apples in the Georgian Bay and eastern Ontario areas. The Apple Marketing Commission estimated there would be a crop of about 95 million bushels; it came in probably closer to 100 million or 110 million bushels.

As a result, a surplus of juice apples was created. Part of the reason for the surplus was a slowdown at the Campbell Soup plant in Chatham. As you may recall, Campbell closed its Thornbury juice plant earlier this year and moved most of that operation to Chatham. They had problems with the equipment that had been installed and as a result were not able to buy the amount of apples they had contracted for.

As of early this week, they have been operating at almost 100 per cent capacity. They are now taking in the equivalent of about 800 tons a day. Before that, the apple commission approached the ministry with a request for possible freight or transportation assistance, if we can call it that, to move apples from Ontario into Nova Scotia, to Cobi Foods.

The request was made in anticipation of Ontario's complementing the federal program that was announced, I believe on Friday, in which the federal Department of Agriculture, and specifically the Agriculture Products Board, announced it would be providing a \$40-a-ton transportation assistance program to move apples from Ontario to Nova Scotia and \$30 a ton to move apples from Quebec into Nova Scotia.

I am sure you recall Nova Scotia had a short crop this year, and to meet its market requirements, Nova Scotia was going to be importing bulk concentrate from offshore, a rather awkward situation when you have surpluses in Ontario and Quebec, a shortage in Nova Scotia

and a company being forced literally to import bulk concentrate in significant volumes.

The federal Department of Agriculture program was made retroactive to October 28, and a couple of loads moved from Ontario into Nova Scotia, I believe, the third or fourth day after that October 28 date was indicated informally to the industry.

We did consider adding on to or complementing the federal program. As recently as Friday of last week, I received a call from the chairman of the Apple Marketing Commission and its secretary-manager who indicated there was not a surplus any more. A number of the surplus juice apples had moved into New York state.

The operations at the Chatham Campbell Soup plant were getting well on stream and it was anticipated that early this week, or by the middle of this week, Campbell Soup would be looking for surplus apples. Indeed, they have been buying virtually all the surplus juice apples from the Georgian Bay area, and the crop has been pretty well cleaned up.

Hon. Mr. Riddell: We also considered subsidizing the transportation of the apples until we learned that whatever subsidy we made would likely be deducted from the federal program. We could not see much merit in that, so we did not go ahead with any transportation assistance.

Dr. Collin: Can I add one point? You have talked about juice apples; that is often a clean-up operation. Charlie Milne of the market development branch is here and might want to add some points, but the market development branch put a very interesting program together this year to market extra-fancy Red Delicious, McIntosh and a new variety, Empire, in the UK market.

Traditionally, our shippers out of Ontario have had a good UK market, but the UK market has changed according to some of the studies our people did last year. The growth of the apple market in the United Kingdom is through supermarkets, not through individual greengrocers any more.

To follow up on that, the market development people brought nine UK buyers to Ontario in October. These buyers toured the apple orchards and packing facilities in Brighton, Georgian Bay and Norfolk county. At each stop the producers, packing-house operators and shippers asked the buyers how they could break into the UK market. The buyers spent a lot of time with our Ontario people and pointed out that there was a big market in the United Kingdom for red extra-fancy Ontario apples. Traditionally, we have shipped the McIntosh apple to the northern

United Kingdom. That has been the traditional Ontario market.

The UK chain store buyer said that if we can come through with continuity of supply, if we can ensure a premium of high red colour and if we are prepared to market year after year into the UK market, there is a big opportunity to cover some of the big increase in apple production that Brian Slemko mentioned.

9 p.m.

They were very interested in the development in Ontario of the year-round storage of Macs and Red Delicious in the ultra-low-oxygen storages they looked at in Norfolk county. They have said there is a market for the expanding apple production from Ontario.

The market development people have followed this up and they have a very specific promotional program covered by our UK marketing specialist to work with the buyers for supermarket chains. The first shipments of Red Delicious and extra-fancy McIntosh were in the Covent Garden markets in London at the end of October. They had an extremely good reception.

The United Kingdom is an interesting market. In recent years it has bought Golden Delicious from France, and the quality is not being maintained. The UK buyers are very impressed with the Red Delicious, McIntosh and the new variety, Empire. They feel there is a real market for the expanding shipment of Ontario red varieties into the United Kingdom.

It is a different matter from the juice, but it is a longer term and a bigger statement in the apple market to address the greatly expanding industry that we have. It will be a long-term program, and I think it is a good example of some of the things the market development people are doing.

Mr. Stevenson: Is Empire a hard-textured or soft-textured apple?

Dr. Collin: It is quite a crisp texture. It eats very well. It has a much firmer texture than McIntosh, but we could see McIntosh in the UK market in October. The buyers' real concern with McIntosh is its softness in transit; it tends to show some pressure bruising, some softness. The Empire shows up much better; it is a much firmer apple, more like a Red Delicious in texture, and it maintains a very good quality on the shelf in the store, whereas McIntosh tends to go down a little faster.

Mr. Stevenson: There was a stabilization payment in apples in 1983; is that correct?

Mr. Slemko: In 1982.

Mr. Stevenson: What is the likelihood of stabilization payments now?

Hon. Mr. Riddell: Henry Ediger can answer that question.

Mr. Ediger: There is a stabilization payment being made now for the crop that was marketed a year ago. I have to think specifically which year that is, but receipts are coming in now and they are being made for the last market crop year.

Mr. Stevenson: It is likely the 1983 crop.

Mr. Ediger: It is likely the 1983 crop. Yes.

Mr. Ramsay: On apples, I was intrigued by the description Dr. Collin gave of the Empire apple. A question comes to mind; maybe it relates directly to Empire and I can follow up with a second question.

Do we have any idea what quantity of Granny Smith apples we are importing into Ontario? I know it is substantial, and I wonder whether there is work in plant genetics to try to complete an apple that is going to satisfy the consumer in the way the Granny Smith evidently does and again try to get into this import substitution. We seem to be able to grow apples in this province if we can only get into marketing directly what the consumer demands.

Dr. Collin: To start off, the Granny Smith really is not adapted to Ontario as an apple. It requires quite a high heat unit to mature and come into premium condition in the fall. Our fall is just not open for that particular apple. The red varieties, by and large, do not compete very well with the Granny Smith type. It is a tough market. Do you have the actual figures there?

Mr. Slemko: If I recall correctly—and these figures would be from about 1983—we were importing about \$5 million worth of Granny Smith apples that year. That is a rather significant amount, but, in comparison, we import \$20 million annually in apple concentrate, for instance. However, that \$5 million worth of Granny Smith is in itself a pretty significant figure.

Mr. Ramsay: Did you say we import \$20 million worth of apple concentrate?

Mr. Slemko: Yes.

Mr. Ramsay: Is that in years when we have surpluses of apples or in years when we have shortfalls?

Mr. Slemko: The number has remained relatively constant. There has not been a great deal of fluctuation during the past several years. That is largely because a number of the major processors in Ontario, such as McCain Foods

Ltd., Pillsbury Canada Ltd. and Campbell Soup Co. Ltd. will, unfortunately, prefer or wish to purchase concentrate both because of its price and also year-round consistency of supply, which has very little reflection upon our apple industry. It is perhaps for the same reason that a number of companies import grape concentrate. It is used in their product mixture and, again, there is a price factor which is very important to them and also year-round supply.

Mr. Ramsay: As we have developed more and better apple storage such as ultra low oxygen storage, have we seen less importation of British Columbia Delicious, for example, or Oregon apples, that sort of thing? Is that declining with our better storage capability or is there still a market? I know we are directly trying to compete with our Red Delicious compared to the BC Delicious apple.

Mr. Slemko: My immediate response would be yes, indeed, it is because of the storage. With our ability to keep apples virtually all year-round, we certainly are and certainly will be seeing less interprovincial movement of apples within Canada from places such as British Columbia. In turn, that will also be reflected in greater sales of Ontario apples with respect to finished products such as juices. Perhaps in the not too distant future we will see apple concentrate in bulk form being made in Ontario.

Mr. Ramsay: When you refer to this apple concentrate, you mean just juice concentrate?

Mr. Slemko: Yes.

Mr. Ramsay: You said Pillsbury, and I thought maybe you meant the different types of apple fillings they would use in all the various frozen fruit products, for example. Is Pillsbury in the apple juice business too?

Mr. Slemko: I used Pillsbury specifically because, as of two years ago, it acquired Martins and St. Jacobs, which were Brights Canning. They are very large in the apple juice business in the Niagara Peninsula.

Mr. Ramsay: Could you supply within Ontario all the types of prepared apple products that go into those baked goods, such as turnovers? Is that supplied from the domestic market or are we importing that, in prepared form?

Mr. Slemko: The majority of the apple products you buy in Ontario would be from Ontario apples.

Mr. Ramsay: Thank you.

Mr. D. W. Smith: This is moving away from apples a bit, but I noticed where there is a vote,

there is a section that says "less special warrants." I just wondered who puts those dollars in there because they are subtracted from the amount that was voted on. Where did those dollars come from?

Hon. Mr. Riddell: I wonder if I might ask Rita Burak. Mr. Ediger, do you want to respond?

Interjection.

Hon. Mr. Riddell: I will ask Michael Keith.

Mr. Keith: The amount shown for the special warrant is the amount that is put before the Lieutenant Governor, and this was done this year. It is a rare circumstance which occurs when there is a problem with the estimates being tabled at the beginning of the fiscal year. There is a special warrant which is made up of amounts of money the ministry anticipates spending during a certain time. In this case, it was for a 90-day period from April 1 to June 30. That is approved by the Lieutenant Governor and the amount to be voted in the estimates is reduced by what was approved in the special warrant.

Mr. D. W. Smith: Does that mean that anywhere in these sections where it says "special warrants," it is all for the same purpose or does it apply only under the agricultural marketing and standards program?

9:10 p.m.

Mr. Keith: In each one of the different votes, vote 1, 2, 3 or 4, the amount identified for a special warrant is approximately one quarter of the total expenditure for that vote and it applies to the same programs of that item.

Mr. Chairman: Before we leave vote 2102, item 1, the minister has tabled estimates supplementary to the ones that are in your book. They have been distributed to you through the Management Board of Cabinet. I would suggest, unless the committee has objections, that we deal with these supplementary estimates in this vote rather than leaving them to the end. It relates directly to this vote and this item of the vote. Are there any objections to that, that is, the supplementary estimates of \$1.4 million? If that is agreed, we will include these supplementary estimates with this vote. We will have to carry it separately, but nevertheless we will include the debate with this item.

Are there any other comments on vote 2102, item 1?

Mr. Stevenson: Regarding the situation with grapes this year, what is the yield and the anticipated marketing problem?

Mr. Slemko: The 1985 grape crop came in at slightly in excess of 70,000 tons compared to the

1984 crop, which was slightly in excess of 90,000 tons. You may recall, Mr. Stevenson, that in 1984 the government agreed to participate in a surplus purchase program for the 1984 crop, a surplus which amounted to exactly 33,011 tons. We and Agriculture Canada agreed to participate in sharing the losses associated with that purchase program.

The surplus is down considerably for the 1985 grape crop. It is estimated to be roughly 12,000 tons this year. We are now having discussions with Agriculture Canada about the possibility of participating in a program this year. We have not yet finished those discussions.

Mr. Stevenson: Does that excess amount of 12,000 tons take into account the expected production of wine for this coming year and so on?

Mr. Slemko: Yes. Out of the total 70,000 tons, after domestic requirements, including the wineries, the juice plants, the jams and jellies and a small amount for brandy have been calculated, there are still roughly 12,000 tons left over.

Mr. Ramsay: I am wondering in what type of grape exactly is the surplus. Is it the grape used for wine making?

Mr. Slemko: In the two previous years, last year and this year, the bulk of the grapes bought as surplus by the agricultural products board have been the red grape variety, largely the Concord grape. I am sure you will appreciate that is a reflection of domestic wine sales, because in the last few years consumer preferences have been towards white wine. The industry is in the process of changing varietal types of grapes to reflect that change in consumer taste for white wines.

The bulk of that Concord surplus, purchased in 1984, has gone to Cadbury Schweppes Powell Inc., for grape juice.

Mr. McGuigan: What is the industry doing about changing over its varieties? Are there any federal or provincial government programs to help that changeover?

Mr. Slemko: At the present time I am not aware of any government programs, either federal or provincial, that apply directly to growers to enable them to convert from one variety to another. You may recall that in 1975-76 the Ministry of Agriculture and Food did provide assistance to growers to convert some of the varieties they were growing.

Mr. McGuigan: I guess "preplant" is a better word. That program is no longer in existence.

Mr. Slemko: I believe it was a two-year program and it has long since expired.

Mr. McGuigan: Are producers voluntarily taking out any of their ConCORDs and replanting? I am wondering how long the assistance program will have to go on.

Mr. Slemko: I think the process of converting varieties is going to accelerate in the next few years. That is because the Agriculture Products Board, in buying this year's surplus—and it is paying 90 per cent of the negotiated price for the surplus grades—has agreed with the Grape Growers' Marketing Board to pay prices based on sugar standards, which the industry has looked forward to for a number of years. For grapes with the higher sugar level, the premium price will be paid. That will very directly encourage growers to get into the varieties that have a high sugar level, which are the hybrids and the white varieties.

Mr. McGuigan: Then it will work against the Concord?

Mr. Slemko: I do not think we shall totally eliminate the Concord as a grape variety because it does have a use for jams, jellies and grape juice, but we shall see a decline in the acreage of ConCORDs over the next few years.

Mr. Stevenson: I will again bring up the subject of export subsidies. I mentioned it in my leadoff statement and got a response which, quite frankly, I do not understand. The response was something about keeping products here to increase the Ontario input into the processing and then trying to sell them. That is fine, but I was talking about trying to unload peak productions of some of our primary products in certain years. That is the part that is open to export subsidies under the General Agreement on Tariffs and Trade, not the manufacturing side. That is the area the European Community and the Americans are most active in.

9:20 p.m.

I saw a press release this week arising from the Senate discussions on the United States farm bill. I forgot to bring it with me tonight. I believe their statement was that the US Senate is still seriously considering increasing the funding for export stimulation, or whatever their words are. Quite clearly, they are just export subsidies or special agreements for export financing.

I suspect is just an increase, an expansion in the program operating there now. Not only are they talking about the possibilities of subsidization of primary products into new markets, which I understand is the primary aim at the moment,

they are also talking about stimulation of long-standing markets, including the Union of Soviet Socialist Republics.

Maybe it is a matter of it happening to be in front of the Senate and somebody wanting to get a bit of coverage, but if there is any truth to that press release and should that move develop, then Canadian exports are going to be in an even tougher league in the international marketplace. Canadian governments at both levels should take a serious look at sending some of the money going into these top-up programs and putting it into another form that will not run the same risk of countervail and using short-term funds to market some of our products in a more innovative manner to stimulate markets, if I remember the term used in that press release.

I wonder whether the ministers of agriculture in their recent conference talked at any length about new ways of assisting with the marketing of agricultural products in a fashion that will not lead us into the traps of our present pork situation. Undoubtedly, there will be other agricultural commodities that will come under that review. I understand there is a considerable push right now in the United States for some action on beef.

Hon. Mr. Riddell: I am not aware of the press release you are referring to and I do not know whether any of my staff is. Dr. Collin, are you?

There was discussion about export markets at the conference and the realization that we are going to be facing an ever-increasing competitive market throughout the world. Realizing this and considering the very points you have been mentioning, a task force was established, consisting of representatives from the ministries of agriculture in all provinces. Dr. Collin and Russ Duckworth are representing the province on that task force. Both gentlemen were introduced earlier this evening.

Do you want to make any comment on that task force, Dr. Collin?

Dr. Collin: The minister is referring to an interprovincial committee on agricultural trade. One of the tasks this committee has undertaken is to look at the issue of subsidy and how it affects our export opportunities. It goes back to the example you used, the issue of countervail on pork. The intent of this federal-provincial committee is to find some equity among the provinces in subsequent programs, starting there first and then addressing the issue of subsidy in finding export markets.

I am sorry Bob Seguin is not here because he is very knowledgeable in this area. When you look

at the number of commodities, for example, farm products, there may be 100 agricultural commodities they deal with. The question is, do the federal or provincial governments have the kind of resources one would have to apply to such a wealth of commodities to be in the same league as the European Community or the Americans?

We had a very interesting example while looking at European policy. We travelled to Brussels in October to talk to senior staff in European commodity and agricultural activities. Our concern was to find market opportunities and to find out about their subsidy of exports. The staff we talked to denied openly that they subsidize exports. They do find key markets, particularly in the planned economies, where they place wines, butter and these kind of things, but they claim very openly they do not subsidize exports into the North American market. It is hard for us to accept this claim.

We were talking about the issue of wine one afternoon. This raised the issue of Ontario with its wine industry and, as Mr. Slemko was explaining, the surplus removal program is a very small program dollar-wise compared to the issue of meeting the surplus of wine produced in Europe or the surplus of wine produced in California. Our economies of production are not comparable to either country. The Europeans will very honestly say they do not subsidize the wine industry when we know from our travels that huge tracts of vineyards have been replanted, reterraced, provided with irrigation and with road systems with no interest cost for production. Of course, we say this is a subsidy. They counter and say it is not an export subsidy.

It is a difficult issue. The frustration is to try to deal with as many commodities as we have in farm products and deal in the world market when there is the US and European production. We are trapped between.

There are a couple of examples where our industry has addressed export opportunities. Tobacco is a good one, where industry and processors have come together with a pooling price to meet world tobacco prices. As Russ Duckworth explained, the most difficult thing for the negotiations now is to set the international price for Ontario tobacco.

It is a very difficult process of balancing the domestic price and averaging that out with producers and industry to find a way to capture international markets, particularly the United Kingdom, with Ontario tobacco. The claim is that tobacco cost or production is \$2.13 a pound and we know the United States is selling tobacco

at 90 cents a pound in export markets. Developing countries are selling at \$1.20 and \$1.10 a pound.

One of the other issues that have worked well in export has been sweet corn. Ontario has developed a good sweet corn market in the United Kingdom. We had a chance to market the sweet corn in the United Kingdom in October. They have done this by a two-price system, a domestic price and a higher risk price for the export market. It was successful in capturing a significant part of the UK demand for sweet corn. Ontario corn is recognized as premium in quality, except in the United Kingdom.

9:30 p.m.

The last example I could give—and maybe the industry could address some of this—is the tomato paste price negotiated between the vegetable producers' marketing board and the processors to start up a tomato paste industry that would withstand import costs of tomato paste.

The bottom line is that where you have to deal with so many commodities, treasuries are very difficult to address with regard to export subsidy kinds of programs.

I do not know whether Mr. Milne would like to address the \$300,000 budget in this vote for export market development. Maybe he could add some positive enforcement to the point I tried to make.

Mr. Milne: Thank you. Dr. Collin is referring to the section in the budget called export sales aid, a \$300,000-transfer payment towards stimulation of exports.

This is a program which essentially provides seed money to agricultural producers and processors to assist them into markets in a small way. It is to assist them in things such as relabelling for a foreign market, reformulation and point-of-purchase material for a foreign market. It is not for actual market development such as the trade missions or things like that. It is a direct transfer payment to firms.

It has been an overwhelmingly popular program, so much so that the entire \$300,000 budget was fully committed by the first week in August this year. We are currently in a position of having to turn down certain organizations which are coming to us later in the fiscal year requesting funds. There is a maximum limit on it of \$35,000 per applicant. We have just reduced that to \$20,000 in the interest of providing assistance to more people. The rapid increase in the popularity of this aspect of our program has been such that we are having to turn people away from the door

and ask them to reapply under the program at the beginning of the new fiscal year.

Dr. Switzer has a copy of the program right now.

Hon. Mr. Riddell: That was Charlie Milne who works in our market development branch.

I would be interested in hearing more about your suggestions on export subsidies, Mr. Stevenson. There are some games we do not want to get into. An example of that is the US arrangement with Egypt; it is striking a deal with Egypt. Wheat is a notable case whereby it sells one bushel of wheat and it gives another bushel away. My understanding is the Russians have asked for the same deal, but the United States to this point has resisted. There may well be some suggestion that it give the same deal to the USSR. As far as I am concerned, this would be disastrous for the world wheat trade.

We do not want to get involved in some of these things, but I would be interested in hearing more of your suggestions on what you referred to as short-term export subsidies.

Mr. Stevenson: I do not have the resources to check out too many of these things. I just see the press releases and try to read between the lines to see what some of them mean. Surely we must have some form of creative marketing for Canadian wheat. I have trouble believing that every deal we make in the world market is without some sort of inside—

Mr. McGuigan: We do not have any surplus, do we?

Mr. Stevenson: No, I am not saying we do. I am saying we are selling into an extremely competitive world market and the Canadian Wheat Board over the years has been quite successful playing in that market. Knowing some of the things the Americans, the European Community and others have tried, I suspect Canada is doing some imaginative marketing.

I look at potential markets, for example, pork into Japan. How far are we from cracking that market in a substantial way? How much do we have to bend to beat the Danes in that market or, if we are able to meet them, are they prepared to go that much lower? If it were a matter of being pennies a pound away from getting into that market in a substantial way, the governments of Canada should look at the delivery of the funds going into pork production across Canada to see whether there is not a better way of getting the funds to the producers, directly or indirectly, and not being subject to the pressures they are under now from the Americans.

There is a substantial amount of money going into various top-up programs. I am sure governments are prepared to come up with more if they could be sure of trying to deal with some of the production problems we have now. Imaginative marketing programs are being used in other areas. Can we not use them, without great cost, to crack a market? That is one question that comes to mind.

Dr. Collin: I do not have all the information that might help you on that point, but I will relate a couple of things that have happened, particularly about pork. Our market development staff did bring a group of Japanese buyers in to work with the Pork Producers' Marketing Board and some of the meat processors in Ontario. As a result of that discussion, the Japanese buyers were very specific about the kind of problems they saw and about the limitations of Ontario pork.

As I recall the information, they put the emphasis on the issue, "You must know the Japanese markets if you expect to compete with Denmark." It seemed to me in reading their comments—I did not attend the discussion—the quality of pork was a factor. The issue of cut meat preparation would have to be assigned very carefully to address the Japanese needs in the market. It came down to the question, addressed to the pork-processing industry, of whether it was interested in going after the Japanese market.

Out of that issue and out of some investigations we have had about Denmark, we have come to the conclusion that the first step is to pick up where the economics and policy group has done a very detailed study of slaughter capacity for the pork board. We have picked it up and tried to put that in a marketing context. We have initiated a study on pork, particularly its further processing, to look at the Ontario market, future trends and consumer demands for pork, the slaughter capacity of Quebec, the traditional market we have had in the United States and particularly how countervail action will affect any future strategy we may have in marketing and with pork processors in the province.

At this time, we decided not to tackle the Japanese market or even, for example, the Caribbean market. We felt we had to look very closely at the capacity and resources we had in Ontario and neighbouring provinces and what our market was in the US. The consulting study will look at market trends, consumer demands and industry demands in retailing and further processing opportunities for pork. As I read it, there is a real question about where the process-

ing industry in Ontario is heading and what kind of resources it must apply.

9:40 p.m.

This study should be finished about the end of December. The next step could be to look specifically at what you have said about the Japanese market. The Japanese market has changed again very much. The Danish exports are very much back into the Japanese market. They do make provision for Japanese inspection at their slaughtering facilities, and I understand the Danish slaughtering and further processing industries are extremely advanced technologically. I am sure our industry could learn from the advanced technology in production, slaughtering and further processing that we understand is in Denmark.

Another aspect of the Japanese market that is interesting is that Denmark has moved very quickly into the Japanese market, where Ontario did enjoy a good market in recent years, and Taiwan has also moved very quickly into the Japanese market. The implications, particularly of Taiwan's capture of the Japanese market, really should be looked at pretty carefully to see whether it is the case that it has the advantage in the cut meat they provide or not.

We have initiated the study, and the next step is to look at overseas markets for pork.

Mr. D. W. Smith: When you talk about trying to be innovative in export sales, how much difficulty does it cause other countries or how much difficulty would it cause the federal and provincial ministries if we had a few more import controls? Is that a problem?

I think specifically of a processing plant here in the harbour that brought in a boatload of beans from Brazil early last summer or late spring. Have you any way of stopping that, or do you lose tremendous markets in some other field with Brazil? If you cannot find enough money to give export sales aid, can you slow down things coming into this country? At that time it dropped the base price 70 cents a bushel on our Ontario beans in about two months. Where are we in that field?

Mr. Slemko: If I may respond to your specific example, yes, it was early this spring that the crusher you are referring to, Victory Soya Mills, did bring in a boatload of Brazilian soybeans. We were very concerned about that, as was the Ontario Soya Bean Growers' Marketing Board, which brought this to our attention. We were very quick to try to get some answers about why that had happened, given that at the time

significant amounts of Ontario beans were being held in storage.

The explanation given by Victory related to the fact that this was the first time it had purchased beans from Brazil in that significant a quantity and that one of the factors influencing its decision was the price of Brazilian soybeans. That does not specifically answer your question.

Mr. D. W. Smith: It does not help our cause.

Mr. Slemko: Indeed not. They provided further explanation by noting as a general comment that the soybean farmers were not selling their beans; they were keeping them in storage in anticipation of higher prices to come. That was noted by Victory, but of small comfort to them because, like other crushing plants, be they Maple Leaf Mills or Canada Packers, they have customers and markets they have to service, and since they are unable to buy the beans in Ontario, they were forced to bring in beans from Brazil to keep their plant running and to meet their market commitments.

I am not sure that fault could be put upon Victory to the degree they felt guilty about it, but they were quite simply unable to buy the beans in Ontario. We have some assurance from them that this will not happen again. Between Canada and the United States, it is pretty much an open border on beans and meal, and from Brazil there is absolutely no tariff on them. The beans were bought in Brazil at roughly three quarters of the price that Ontario beans were being sold for at that time.

Mr. D. W. Smith: Further to that, I wonder sometimes how information gets out. My family and I were on the boat cruise around there, and the guide on the boat during the tour said when we went by the processing plant that it purchases all its beans from the United States.

That hit me as a farmer. As one who produces soybeans, I thought: "Is this right? Has she got her facts wrong?" If this story is being spread to all the visitors who go around the harbourfront there, maybe more beans are coming here than just the boatload from Brazil. I want to know whether you have ever followed up on that.

I have another question about the Ontario Grain Corn Council getting \$85,700. Is that new? Is that an annual grant?

Hon. Mr. Riddell: Maybe you would like to elaborate, Dr. Collin.

Dr. Collin: Yes. It is included as an item under vote 2102, item 1. There are a number of transfer items in this that, as a budget, would total about \$3.5 million. This is one of the

transfer payments; it is an annual grant to the grain corn council.

Mr. D. W. Smith: Is it the same as last year?

Dr. Collin: Yes.

Mr. Ramsay: I want to get to back to pork for a second. Does anybody have a handle on how much pork product comes into Ontario from Europe?

Hon. Mr. Riddell: We will get a response for you on that.

Mr. Villeneuve: I was interested in Dr. Collin's remark regarding quality when we speak of the Pacific Rim and Japan, and particularly about pork products. Are you saying the pork produced in Ontario is of inferior quality to that being produced in Denmark?

Dr. Collin: I did not mean to conclude that. I apologize. I did not hear the Japanese buyers specifically say what they wanted, but my understanding was that they said the size, the packaging and the condition of the cuts they required as far as trim, size and specific meat cuts were concerned had to be targeted for the Japanese market.

Mr. Villeneuve: So this is more of a packing-house problem than a producer problem?

Dr. Collin: Yes. It is more a packing-house problem.

Mr. Villeneuve: That should not be very difficult to cure, I would hope, because I firmly believe we have a tremendous potential in the Pacific Rim and in Japan, not only for pork products but also for beef and a number of other products. The economic situation out in rural Ontario is not good, and if the problem is in the packing-house area, we should zero in on it and cure it quickly.

Dr. Collin: We can take the lead from the Danes on this one, because if you look at the statistics of Danish exports to North America or Japan, their product delivery has changed very much in the past five years. Where they have gained in the Japanese market is in the delivery of specific pork cuts to meet the Japanese requirements.

The Danes have gone very far in including Japanese inspectors or observers in the slaughtering and producing facility to assure the Japanese buyers they are getting exactly what they require in cut and quality. That has been under way for the past five to 10 years in Denmark. They are very progressive in finding out what the market

needs and demands and then going about providing and delivering that quality and quantity.
9:50 p.m.

Mr. Villeneuve: Possibly you can help me again. When Denmark ran into a disease problem a couple of years ago, the Japanese nation and people were very glad to take our pork, along with American pork, and very quick to drop us whenever Denmark came back on the market. Is there something we can do in that vein? We should go to Denmark. We should do whatever it is it is doing; copy it. We need that market.

Dr. Collin: As I said earlier, Ontario pork lost out in the Japanese market not only to the Danes but also to Taiwan production. Two factors have to be considered. I agree that is the next step we should take, to look very closely at the Japanese market to see if we have the chance to regain that market from either Denmark or Taiwan by providing the demanded cuts. That would be the objective.

Mr. McGuigan: I have a question about the people who have a surplus of apples, or at least they did have a while ago. This forced some assistance to send that surplus to the Maritime provinces for juice processing. Has anything been done on that?

Hon. Mr. Riddell: That question was asked earlier. I believe Mr. Slemko's response was that we do not have the apple surplus problem now that we thought we had. The federal minister was going to provide some transportation assistance for apples going to Nova Scotia. Mr. Slemko, maybe you want to repeat your earlier answer.

Mr. McGuigan: The market has taken it up, then. I am sorry. I did not know it had been answered.

Mr. Slemko: That is fine. Your comment sums it up quite well. The local market has taken up a large part of that surplus, largely attributable to the fact that Campbell Soup in Chatham is operating at a much higher capacity than it was a couple of weeks ago. There have been some export apple juice sales to New York state. For all intents and purposes, the problem has resolved itself.

Mr. McKessock: Time has resolved part of it. Some of the apples have been dumped in the bush because they have rotted. We do have a problem of not having enough processing or canning facilities in Ontario, especially in the Georgian Bay area where most of the apples are grown.

I talked to some of the people involved today, and the fact that it has righted itself is because a little more time has gone by, which has given the

processors a chance to clean some of them up. However, some of them were beyond cleaning up. We visited them about two weeks ago with some of the ministry staff. At that time, quite a few of the boxes sitting around had rotten apples; they were settling badly. Those fit to go to market have gone by now, but the facilities were not there when the produce was ready, so some of them had to be dumped.

Mr. McGuigan: As a matter of interest, people in Chatham have told me the basis of the problem at Campbell Soup was that it brought some equipment in this year and used a tomato line to receive the apples. With grounder apples picked up in the fall, a fair amount of grass comes along with the apples. The tomato equipment simply bogged down with grass; it got wrapped around. After an hour's operation, they had to clean it all out. You can imagine how grass wraps around rollers and that sort of thing. That will be corrected for another year. It was just an error in judgement in using equipment that was designed for tomatoes.

Hon. Mr. Riddell: It is my feeling that we do have adequate facilities to handle the apple crop in a normal year. I am not sure you can gear up for a surplus crop when you may get a surplus only once every so many years. Do we not have adequate facilities for a crop in a normal year?

Mr. Slemko: That is correct. It is difficult to gauge whether the province will have a surplus crop one year or just an adequate crop. It was not too many years ago that there was a shortage of apples. That was because of Mother Nature; there was an early frost and winterkill of trees. The processing industry, the juice plants and the normal processors of apples can accommodate normal-sized crops.

Part of the problem this year, as Mr. McGuigan has mentioned, has been the Campbell Soup Company. I am aware of the packing operation in Georgian Bay that you were referring to this afternoon. We need that facility up there. We want to see it continue to operate because of the service it provides to the Georgian Bay area.

There have been a few additional plants opened for apple processing within recent years. As I mentioned earlier, Pillsbury Canada has purchased the Brights' canning operation, and FBI Foods in Trenton has gone into apple juice in a large way to supply the McDonald's restaurant chain production. It is a matter of being able to gear the market demand to production. That is difficult to do at the best of times, because you never know when you will have a surplus crop.

I concur with the minister's observation that there is sufficient processing capacity in the province to accommodate the average-sized crop and even somewhat of a surplus crop if that should occur next year.

Mr. McKessock: We should have had you with us two weeks ago when we were touring the Georgian Bay area. That is not what they tell me.

You are probably aware that the Campbell Soup plant closed in Thornbury a year ago. This is the first year without a canning plant there. It was a disaster to the Georgian Bay area, which grows the most apples of any place in Ontario. If there should be a packing plant or a canning facility anywhere, it should be there. Campbell Soup chose to close that one, and a couple more, when it was amalgamating some of its plants. I know the company thought it could handle the crop this year better than it did, but I guess its plants did not operate at the expected capacity.

I do not think this year was anything out of the normal for the Georgian Bay area. From now on there is going to be an increased number of apples in the Georgian Bay area because a large number of young orchards have been planted. That area is not going to get any less; it is going to get more as far as production is concerned.

It is hard for those people in that area to believe that we have enough processing facilities. They can see the need for more in the future just by looking at the young orchards that are coming along.

Hon. Mr. Riddell: Mr. Slemko, do you want to comment?

Mr. Slemko: I have a supplementary comment about Golden Town Apple Products. Tom Kritsch in—is it Clarksburg?

Mr. McKessock: Thornbury.

10 p.m.

Mr. Slemko: He has expanded his operation and has plans to expand it to almost double what he has at present over a period of years. He has approached us and expressed interest in getting into the production of apple concentrate in a large way. Were that to happen within the next few years, I believe that would go a long way to utilizing a significant amount of the Georgian Bay apples.

Mr. McKessock: It would help.

Hon. Mr. Riddell: It is the old chicken-egg story. Do you plant apple trees not knowing what the markets are, or do you find out whether there is a market before you plant trees?

Mr. McKessock: It takes a long time to grow an apple. The guy might get pretty hungry if he

waited until he knew whether there was a market there.

When you are in an area that grows good apples and there are good farmers, they would like to replace those old orchards with young trees. The new trees they put out nowadays are smaller and produce a lot more per acre than before. They put in more trees per acre and get more apples per acre. They continually become more efficient, as most farmers do across the province. Naturally, this gets us into a surplus position.

This year, I was told the market was there for juice but it was doubtful whether we were going to be able to fill that market because we did not have the processing facilities to do it.

Item 1 agreed to.

On item 2, Foodland Ontario promotion:

Mr. Ramsay: Minister, have cost-benefit studies been done since the Foodland Ontario promotion began—and I imagine for that type of expenditure there probably have been—to see how effective that promotion is and how much of an increase there has been in the consumption of Ontario produce directly as a result of that program?

Hon. Mr. Riddell: Ms. Albany, would you care to respond to that?

Ms. Albany: Since the inception of the program in 1977, we have been conducting annual packing studies. We know that awareness of the symbol as an identifier of Ontario food products is extremely high; it is currently at 73 per cent. We also know that there is an extremely high recall of the slogan "Good Things Grow in Ontario." That is more than 90 per cent. We know from that study and others that consumers are more aware of the wide variety of food products grown in Ontario.

We have increased purchase intent over the past few years. One of the things we are trying to do is increase our funding of this program so we can continue to increase purchase intent. Our dollars do not buy as much advertising and promotion as they did several years ago, so we are concerned that our awareness out there may reach a plateau.

However, since the beginning of the program we have had a great awareness of the symbol and a greater knowledge and purchase of Ontario food products.

Mr. D. W. Smith: Where do all those transfer payments go? How many different boards, bodies or whatever do they go to?

Ms. Albany: Our consumer advertising program is \$1.7 million of that budget of \$2.5

million. Approximately \$780,000 is allocated for our shared-cost funding program. Last year we gave out more than \$680,000 in shared-cost funding to approximately 29 marketing boards and growers' groups.

Mr. McGuigan: Are you sharing any costs with the Fresh for Flavour Foundation?

Ms. Albany: We are not sharing costs with Fresh for Flavour. We are sitting on its committee. On a rolling basis, we do give funding for the summer salad promotion to the Ontario Fruit and Vegetable Growers' Association and the Toronto Wholesale Fruit and Produce Merchants' Association, which submit a proposal together.

Mr. McGuigan: You are telling us it gets there in a roundabout way.

Ms. Albany: We do sit on the board to advise them of what we are doing and to share information.

Mr. Chairman: Are there any other questions or comments on item 2? Shall item 2 carry?

Item 2 agreed to.

On vote 2102, agricultural marketing and standards program; item 3, quality and standards:

Mr. Stevenson: I have questions relating to the problem here in Ontario this fall with the calibration of the model 919 moisture tester that is used to buy and sell corn. To what degree has that situation been resolved, and where are we right now?

Mr. Wheeler: The problem arose this year because the industry has been changing over from one moisture tester to another, as you seem to be aware, Mr. Stevenson. The Canadian Grain Commission is responsible for putting out the moisture conversion tables. The meter is used to test moisture levels in various grains, so a different conversion table is needed to arrive at the moisture levels from the level on the meter.

They came out with a new table in July for corn in eastern Canada, and it was distributed by the grain and feed dealers in the summer with some other charts that they use to calculate drying charges.

The moisture meters are used to calculate two different figures. One is a percentage of moisture in the product, which determines how much wet corn is required to convert into a ton of dry corn for payment purposes. The other figure that is used is the charge for drying costs.

The grain industry adopted the new conversion table but met with some opposition from the producers, especially the Ontario Corn Producers' Association. The grain and feed dealers then checked with the Canadian Grain Commission,

who confirmed that they had no reason to doubt their chart; they thought it was accurate. The corn producers still challenged that, and they are doing some testing of their own to confirm it.

It has come down to a bit of a stalemate, but the grain and feed dealers did at least advise their members that, although the chart was accurate and they had no reason to challenge the figures in it, as far as the grain drying charges went, they could take their own action, I suppose.

Some of them have elected to charge the old rates for drying. Some have even gone back to using the old chart, and it has gone back, I guess, to a competitive marketplace, each dealer making his own decision about which chart to use and which drying charges to assess. The marketplace is taking care of itself right now.

It was all a misunderstanding. A lot of it was communication. The corn producers' association's biggest concern is the manner in which it was implemented. They say they were not advised ahead of time. The grain and feed dealers will argue the opposite, that they did advise the corn producers of what was being done. In any event, the producers out in the country certainly did not know what was coming.

It is not that easy to understand, really, when you get that chart and start converting. If a producer receives his receival slip and it shows a different result and a higher drying charge, it is easy to understand why he would be a little upset about it.

I do not think there is much the ministry can do. It is not a provincial jurisdiction. It is a wide-open marketplace out there as far as what charges are used—for drying, at least. As far as the conversions from wet to dry corn go, the Canadian Grain Commission is the authority that should be able to come up with those charts and defend them, and it claims there is nothing to challenge there; the charts are accurate.

10:10 p.m.

Mr. Stevenson: I guess there are a number of rumours going around and it is difficult to determine which are correct. Certainly the report in the paper would suggest the original samples were taken here, shipped to Winnipeg, and then tested for moisture. Certainly in that time, some degree of fermentation would have occurred. I assume they use an oven-drying technique to determine dry matter.

Mr. Wheeler: I believe that is how the commission does it.

Mr. Stevenson: If some degree of fermentation had occurred, then certainly they will be shortchanged in fatty acids that would go off as

volatiles in the drying oven and would certainly read as moisture rather than dry matter. That is due to the technique of shipping high-moisture grain to Winnipeg and then testing it. Certainly if any changes occurred, and I would assume some had, they would not be in favour of Ontario farmers.

Mr. Wheeler: The Ontario Corn Producers' Association is having some testing done now at the university to come up with their own figures, indicating whether to confirm or refute the Canadian Grain Commission charts.

Mr. Stevenson: There is also a rumour out there, for whatever it is worth, that they have taken the technique that was developed at Iowa State University and is used, I guess, throughout the United States on the same moisture meter. They use a different sample size and a somewhat different technique. However, the rumour I have been hearing is that when you use the American method of measuring moisture, you come up with a value that is even somewhat drier than the old chart. Where there is 27-per cent moisture, for example, the corn this year would read two per cent wetter than it did last year at the same level.

We are talking about a hell of a pile of money here to Ontario corn growers, plus the fact you have temperature sensors. When you have a situation of this size and with the Ministry of Agriculture and Food having access to all sorts of growth chambers and temperature control rooms right at their fingertips, and millions of acres of corn in Ontario ready to be tested—when there is this amount of money at stake, why has it not been directed that Ontario do some checking?

We are looking at what I understand is somewhere between \$7-\$10 million to Ontario farmers and a perfect opportunity to take some steps to determine which of those three calibration curves is correct, the American one, the old one, or the new one. From what I have been able to tell, the only action taken has been by the corn producers.

Mr. Wheeler: However, they and the Canadian Grain Commission are the two bodies I know of that have been involved, and apparently neither can back up or refute the charts. Maybe I can explain.

It has been explained to me that, at least with newer varieties of corn, such as earlier maturing varieties, the old chart has not worked that well for the last few years. Since that chart was developed, it had become really been skewed or was not properly converting the moisture until this year. A number of the dealers out in the

country have been suffering from a shrink factor for a number of years now, and some unknowingly. They have confirmed for us through our licensing system for grain dealers that some of them have been suffering some fairly significant financial losses as a result.

They were not even aware on the chart that had been used up until this year, for instance, that the grain which this year reads 27 on the meter—or with the conversion charts 27 per cent moisture—last year would have been 25. They were paying as if it were 25 per cent and converting out the ratio so they would only need 2,800 pounds of wet corn to make a ton of dry corn when really they needed 100 pounds more than that. They were paying the farmer incorrectly.

The other side of that—

Mr. Stevenson: I have a complete understanding of what you are saying. You do not need to explain that to me. The question is which one is correct. Again, it is totally rumour, but if it is true that the American meter is reading drier than the old curve, then I do not think it should necessarily be up to the corn producers of Ontario to respond.

With all the researchers that OMAF has and all the temperature-controlled rooms and all the bloody drying ovens and the zillion methods we have of measuring moisture content, I think that might have been checked out in Ontario for the benefit of Ontario farmers.

Hon. Mr. Riddell: I brought these concerns to the attention of my senior staff. I was having farmers approach me to say they were losing a considerable amount of money with the present method of testing in comparison with the past. I do not know whether it is a jurisdictional matter, but if there is some way we can monitor the situation or do some testing to see if the system being used is accurate, then I am certainly all for it.

I would like to know if the farmers are being shortchanged and if this system is working very much to the favour of the elevator operators and to the detriment of the farmers. I trust that my staff, since I brought the concerns to their attention, have looked into it or are looking into it. If it is something we can investigate in Ontario then, as I say, we will investigate it.

Mr. Stevenson: I have no way of knowing which way is the more correct. Obviously, either one group is getting taken this year or the other group has been getting taken for years past. Other than the rumour of the American technique, there is no indication I have seen as to which one is the more correct.

Hon. Mr. Riddell: It is something we will certainly pursue for next year's crop.

Mr. Chairman: Are there any further comments on item 3 of vote 2102? If not, shall item 3 carry?

Mr. Stevenson: Hold it a minute. I paused for a moment to see whether anybody else wanted to speak. Under quality and standards, I assume we get into testing of foodstuffs and that sort of thing?

Mr. Chairman: Yes.

Mr. Stevenson: To what extent do we test imports from other countries for things like pesticides, toxins for grain, peanuts and that sort of thing?

Hon. Mr. Riddell: Is Dick Frank here? Maybe he could come up and enlighten us on this matter.

Dr. Frank: As a province we normally do not test imports unless we are asked. In the case of tobacco, you are probably aware we have been asked to do an analysis on tobacco for the Flue-Cured Tobacco Growers' Marketing Board, but generally speaking the testing of imports is done by the Department of National Health and Welfare or other federal agencies. It has not generally been a role for us.

10:20 p.m.

Mr. Stevenson: Do they do any sort of routine testing or is it usually crisis testing?

Dr. Frank: I would not say it is crisis testing. It is spot testing, random testing. If they suspect a certain country or a certain area in the United States is using materials that would leave a residue and are not permitted in Ontario, then they would check them. I draw your attention to beans coming from Florida on which the Americans were allowing fungicides which are not allowed here. So they were checking most shipments coming in and turning them back when they found a residue that exceeded the negligible residue level.

Mr. Stevenson: What about situations where the product is used in other provinces but not in Ontario?

Dr. Frank: That is a difficult situation. Usually, the residue is so low that it is well below the negligible residue and would be very difficult to detect. A lot of chemicals are used on food commodities in other countries, in the US in particular, on which the residue is less than 0.1 parts per million which is considered negligible residue. It could come into the country without being challenged.

Item 3 agreed to.

Item 1, supplementary estimates, agreed to.

Vote 2102 agreed to.

On vote 2103, agricultural technology, development and field services program; item 1, education, research and technical services:

Hon. Mr. Riddell: Could we have Dr. Rennie come up to field some of the questions I am sure will be asked on this subject?

Mr. Stevenson: I have a few questions. What is the budget increase for the OMAF contract at Guelph this year? Is four per cent correct?

Dr. Rennie: It was approximately four per cent. It was \$1 million.

Mr. Stevenson: Is that increase targeted or a general one across the board? How has that been allocated?

Dr. Rennie: That is a general increase across the board. That has been used primarily for salary adjustments for university staff and the employee benefits that go with it.

The problem with the University of Guelph contract in comparison to ministry programs is that when we budget here, the salary adjustment is a separate issue over which we as a ministry have no control. However, when we budget for the University of Guelph contract, because it is a contract, it has to take into account whatever salary adjustments the university decides in its own right to award for management, and then through the bargaining units they have for their support staff. With a shade over a four per cent increase, as it was this current year, the majority of that went for salary and employee benefit adjustments.

Mr. Stevenson: Am I to understand that the actual money going to the research level for usable funds is basically flat line?

Dr. Rennie: Very close to that, yes.

Mr. Stevenson: Are the colleges of agricultural technology, or any other areas, receiving expanded funds?

Dr. Rennie: I will ask Dr. McLaughlin. That is his specific responsibility. I do not believe there are in the current year, looking across the programs, but Dr. McLaughlin will verify that or correct me.

Dr. McLaughlin: There are a number of new and expanded programs submitted from the university, but I do not believe there are any we are prepared to fund with this program right now.

Dr. Rennie: With respect to the colleges of agriculture and technology and our research stations, there has not been a special infusion—

that is what you are asking, Mr. Stevenson—in the current budget. We have tried to maintain programs at about the present level.

Mr. Stevenson: I am curious as to your intention in the area of long-term breeding projects. I am thinking primarily of crops, but the discussion does not necessarily have to be limited to that area. Do you intend to keep those sorts of nuts-and-bolts research projects in place and keep them funded at a significant level, or is there any intention to phase those down and allow the private sector to take an increasing share of that and an increasing share in funding those projects at universities?

Dr. McLaughlin: This year, not under this item, but in my division, we have been using a special research fund to try to draw out some of the private industry and commodity groups. For instance, we matched some money the Canadian Wheat Board put in this last year to get a hard red winter wheat program up and running. That is not what we would call hard money as part of the contract right now.

It is our expectation that some of the things, such as the canola program, which would be new, over and above this winter canola, the hard red winter wheat and some potato cultivar evaluation we are doing under this joint project, would be funded in the next few years under the crop introduction and expansion program announced last Tuesday.

That program is set up specifically to encourage private sector participation. It has been and continues to be our intent that if something is a go, we do not put it here to get it started. We get it started with soft money, and if it is a go, we ultimately try to roll it into the contract and/or

have the contract dollars shuffled around to pick those things up.

Milling quality oats would be another example where Quaker Oats of Canada Ltd. put some money in and we put some money in to match it. For three or four years, Dr. Reinbergs played with some selection criteria that ultimately, if they panned out, would then go into the regular breeding program, picked up under the contract already.

If they are worth while, our expectation is they will wind something down and pick this up and put it in, or we will try to roll money in and increase the size of the operating dollars under the contract.

Mr. Stevenson: Your intention is to maintain those crop-breeding positions in, for example, the crop science department.

Dr. McLaughlin: Yes. You are as aware as anybody that you do not turn breeding programs on and off. Traditionally, we have been funding a base level program. Natural Science and Engineering Research Council, with some of these outside commodity dollars, have been putting the graduate students on to it, which makes the program function more effectively. We are endeavouring to keep those programs in place.

Mr. Stevenson: I was going to branch into a slightly different area and will when we continue.

Mr. Chairman: We will not sit tomorrow morning at the request of the committee and the minister. We will adjourn until Thursday at eight o'clock.

The committee adjourned at 10:31 p.m.

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SPEAKERS IN THIS ISSUE

Barlow, W. W. (Cambridge PC)
 Laughren, F., Chairman (Nickel Belt NDP)
 McGuigan, J. F. (Kent-Elgin L)
 McKessock, R. (Grey L)
 Ramsay, D., Vice-Chairman (Timiskaming NDP)
 Riddell, Hon. J. K., Minister of Agriculture and Food (Huron-Middlesex L)
 Rowe, W. E. (Simcoe Centre PC)
 Smith, D. W. (Lambton L)
 Stevenson, K. R. (Durham-York PC)
 Villeneuve, N. (Stormont, Dundas and Glengarry PC)

From the Ministry of Agriculture and Food:

Albany, M. F., Manager, Domestic Market, Market Development Branch
 Collin, Dr. G. H., Assistant Deputy Minister, Marketing and Standards
 Duckworth, R. E., Executive Director, Marketing Division
 Ediger, H., Executive Director, Food Land Preservation and Financial Programs
 Frank, Dr. R., Director, Agricultural Laboratory Services (Pesticide Laboratory)
 Keith, M. S., Director, Financial and Support Services Branch
 McLaughlin, Dr. R., Executive Director, Education and Research Division
 Milne, C. D., Manager, Commodity Export Marketing, Market Development Branch
 Rennie, Dr. J. C., Assistant Deputy Minister, Technology and Field Services
 Slemko, B. J., Director, Food Processing Branch
 Snell, R. R., Director, Communications Branch
 Wheeler, J. H., Director, Fruit and Vegetable Inspection Branch



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Legislative Assembly of Ontario



Standing Committee on Resources Development

Estimates, Ministry of Agriculture and Food

First Session, 33rd Parliament

Thursday, November 21, 1985

Speaker: Honourable H. A. Edighoffer

Clerk of the House: R. G. Lewis, QC

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chairman: Laughren, F. (Nickel Belt NDP)

Vice-Chairman: Ramsay, D. (Timiskaming NDP)

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Ferraro, R. E. (Wellington South L)

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McGuigan, J. F. (Kent-Elgin L)

Rowe, W. E. (Simcoe Centre PC)

Smith, D. W. (Lambton L)

South, L. (Frontenac-Addington L)

Stevenson, K. R. (Durham-York PC)

Substitution:

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. Rowe

Also taking part:

Miller, G. I. (Haldimand-Norfolk L)

Riddell, Hon. J. K., Minister of Agriculture and Food (Huron-Middlesex L)

Clerk: Arnott, D.

From the Ministry of Agriculture and Food:

Ashman, Dr. J., Program Manager, Incentives and Performance Testing, Red Meat Administration Centre

Boyd, K. G., Project Co-ordinator, Agricultural Engineering Services

Caine, R., Policy Adviser, Economics and Policy Co-ordination

Fleming, P., Manager, Rural Organization, Rural Organizations and Services Branch

Frank, Dr. R., Director, Agricultural Laboratory Services (Pesticide Laboratory)

Hoag, N. W., Director, Agricultural Representatives Branch

MacDonald, M., Education Specialist, Rural Organizations and Services Branch

Rennie, Dr. J. C., Assistant Deputy Minister, Technology and Field Services

Spencer, V. I. D., Director, Soil and Water Management Branch, Agricultural Laboratory Services (Pesticide Laboratory)

Switzer, Dr. C. M., Deputy Minister

Taylor, D. W., Principal, Ridgetown College of Agricultural Technology

Toivonen, M., Comptroller, Agricultural Research Institute of Ontario

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, November 21, 1985

The committee met at 8:11 p.m. in committee room 1.

ESTIMATES, MINISTRY OF AGRICULTURE AND FOOD (continued)

Mr. Chairman: The committee will commence. We have nine hours left in these estimates, which should mean that next week will be the final week for estimates of the Ministry of Agriculture and Food. I believe the minister has something to say.

Hon. Mr. Riddell: I had a further response to questions posed by the member for Durham-York (Mr. Stevenson). I know that one question was asked by him. The other one was on Granny Smith apples. I do not know whether there is any sense in responding till Mr. Stevenson gets down or not.

Dr. Switzer: We have a pork answer for the member for Timiskaming (Mr. Ramsay).

Hon. Mr. Riddell: We have a pork answer there?

Mr. Ramsay: I had asked about pork imports into Canada from European countries specifically.

Hon. Mr. Riddell: Yes. "What are Ontario's imports of fresh and frozen pork from the European Community?"

In the first 10 months of this year fresh and frozen pork imports from Denmark reached \$8.9 million. This is an 11-fold increase from the same period a year before. Denmark has now surpassed the United States as Ontario's main supplier of pork.

The Ontario Pork Producers' Marketing Board and the Canadian Pork Council are very concerned about the large increase in pork imports. The Canadian Pork Council is, in fact, considering filing for countervailing duty to be imposed on these allegedly European-Community-subsidized imports.

I have a number of tables here if you would like them.

Mr. Ramsay: Thank you. I appreciate the answer. I suspected there was some pork coming in from Europe. We do not hear about that too much. For the last year we have always heard

about the Irish beef. A big to-do was made about that, and rightfully so, by the farmers in Ontario.

I find this rather shocking. My first question is, why do we do this. We have pork producers in this province going out of business; they cannot make a living. Yet we bring in product from offshore that, even if it were not subsidized in its production, I do not think we should be bringing in. But I would imagine that, coming from the European Community, it is heavily subsidized.

Why do we do that? What tradeoff for us or the federal government allows this product to come in and put our people out of work?

Hon. Mr. Riddell: As you well know, we in the province have no control over the importation of anything into this province. I share your concerns. I do not understand why we import so much pork and beef when our own beef producers and pork producers are having a hard time making ends meet in this province.

Mr. Caine, do you want to comment on the reason we are allowing so much of this product into our province when it is obviously injuring our own producers?

Mr. Caine: The starting point, coming back to what the minister said, is that international trade is under federal jurisdiction. Canada has a set of countervailing duty laws that are in accordance with the General Agreement on Tariffs and Trade. You have to fulfil the conditions of GATT to impose countervailing duties. One of the conditions is this element of subsidy, and a second is determining that these imports are, in fact, injuring your domestic industry. Both conditions have to be met before the federal government can take action and impose the countervailing duties on imports.

It is a concern that these imports are coming in, but at the moment those imports are still a very small percentage of Canadian production, and you just cannot shut out that import even though it is subsidized. The Ontario Pork Producers' Marketing Board believes it is the range of about seven per cent of the wholesale value, so that is a concern.

Mr. Ramsay: Eleven per cent, is it?

Mr. Caine: Seven per cent. Our information is that the Canadian cattlemen have launched a countervailing petition against the Irish beef and

they are hoping the federal government will evaluate their case. There is going to be a preliminary interview in early January. At that time provisional countervailing duties on Irish beef might be imposed. The federal government will evaluate their case. There is going to be a preliminary inquiry ruling in early January, and at that time provisional countervailing duties on Irish beef might be imposed.

I might add that the federal government has worked closely with Canadian producers. At the moment it is working closely with the Ontario Pork Producers' Marketing Board in preparing data to see whether our case is sustainable inside the GATT framework that Canada has to abide by.

Mr. Ramsay: Since the federal government is helping the pork board in getting this data accumulated and in its court proceedings, or something that goes on to—

Mr. Caine: There are two aspects. One is that Revenue Canada investigates whether the imports are subsidized. After that there is another session, which is administered by the Canadian Import Tribunal, which looks into the question of injury. With luck it takes about nine or 10 months to go through all these hurdles.

If Canada attempts to impose a tariff unilaterally, then under GATT the European Community can take retaliatory action. That is the problem the federal government faced in introducing a beef import quota last year. That was because it took an action of a quota, against which the EC can seek compensation. It has to tread very carefully in this area, because the EC threatened to attack or reduce the Canadian exports of blueberries and certain other products.

It is a very difficult matter; you have to operate within this GATT thing.

Mr. Ramsay: I suppose the reason we have this is the failure of the federal negotiators from the Tokyo round or previous rounds of GATT negotiations in accepting a deal where we do have to allow agricultural imports into this country.

Mr. Caine: Stepping back, there might be an element of truth there, but under GATT it is not illegal to subsidize the export of agricultural products, and this is one of the issues that Canada is trying to initiate in the next round of GATT. We are trying to bring these export subsidies within the GATT framework, trying to stop this use of export subsidies, which is disrupting the whole international market. That is a big push the federal government is making. But the EC is very reluctant to reduce its export subsidy programs,

because its programs are dependent on clearing these surpluses. The support prices have generated that.

It is a very big problem and it cannot be solved overnight. Canada is not a big enough player to take measures unilaterally against the EC, because Canada is sensitive to retaliatory measures that would be very harmful.

Mr. Ramsay: What we see going on now with the European Community is probably a good forewarning for us of the possibilities of free trade with the United States in the agricultural sector.

I am not asking a question; I do not want to put you on the spot. I am just stating that we have a problem there now, and let us hope we do not run into another one in the future.

Hon. Mr. Riddell: One of the other questions asked was, "What are Ontario's imports of Granny Smith apples?"

Statistics Canada does not collect information on the variety of apples imported into Canada. However, it is estimated that 80 per cent to 90 per cent of apple imports from South Africa, Chile, France and New Zealand are Granny Smith apples. Furthermore, 10 per cent to 20 per cent of apple imports from the United States are estimated to be Granny Smith apples.

In the period from January to August 1985, total apple imports were valued at \$18.5 million. It is estimated that Granny Smith apple imports alone represented \$10 million to \$11 million. In 1985 the increase in apple imports from New Zealand was particularly striking.

Imports of Granny Smith apples occur on a year-round basis, reflecting the fact that they are supplied by countries in both the northern and southern hemispheres.

8:20 p.m.

To further respond to Mr. Stevenson's question regarding the moisture meter for eastern corn, first let me make it clear that the ministry has not been approached by any grain producer groups or by the Ontario Corn Producers' Association requesting assistance or support of their effort to oppose the new table. Second, although the Canada Grain Act does not apply to most marketing of grain in Ontario, the commission has performed a vital role in providing standards of trade for the Ontario grain industry, including the conversion table 7 used for the moisture meters.

The fact is that the Canadian Grain Commission has provided a valuable service to the Ontario grain industry for many years. The commission has extensive data and experience

upon which to base its tables, and there is no solid evidence to suggest the tables are inaccurate.

I understand that the moisture meters and conversion tables are verified as a standard procedure. Calibration was based on the samples of the most recent years. Further field studies have been undertaken this year, and the ministry has been in touch with the commission's office, where the studies are under way under the direction of John Dempster.

The ministry will follow up on the investigations initiated in response to concerns presented to the Canadian Grain Commission by the Ontario Corn Producers' Association. Through the Ridgetown College of Agricultural Technology we are prepared to assist the Canadian Grain Commission and the Ontario Corn Producers' Association in any way deemed necessary to check the accuracy of current charts.

I have asked the Ontario Grain Corn Council to meet with the Canadian Grain Commission to review the technical data upon which the tables are established; the methods of generating these data, including the handling of samples, and the application of those tables by the Ontario grains trade. This meeting of the Ontario Grain Corn Council is scheduled for January 21, 1986. Ministry staff will attend the meeting.

Mr. Chairman: Are there any questions on the minister's responses? If not, when we adjourned on—

Mr. Stevenson: Do we have information readily available on how many Canadian products are subsidized into our own export market?

Mr. Caine: The one that comes quickly to mind is dairy products. Cheese products receive an export subsidy. Cheddar cheese going into the United States and into the European Community is subsidized to the tune of about \$1.50 per kilogram.

Mr. Stevenson: Producer checkoff.

Mr. Caine: It is a decision by the Canadian Milk Supply Management Committee and supported by the boards.

That is a direct subsidy. There is also credit assistance through the federal government.

Mr. Stevenson: What about powdered milk?

Mr. Caine: Powdered milk is helped in the same way as cheddar cheese. That is costing the producers about \$300 million a year. Cheddar cheese has cost us about \$10 million a year.

Those are the two. That is the area where export subsidies are being used by Canada, whereas the others are more indirect subsidies.

Mr. D. W. Smith: Did you say that was costing the producers \$300 million a year?

Mr. Caine: Yes.

Mr. D. W. Smith: How do they get it from the producer? They must penalize him in his quota. Is that how they get it?

Mr. Caine: No. There is an in-quota levy that is collected from the producers' own fluid milk and industrial milk, and it is in the range of about \$5 per hectolitre. There is an in-quota checkoff on fluid milk and a similar in-quota levy is collected on industrial milk.

Mr. D. W. Smith: What is a hectolitre? Is it 10 litres?

Mr. Caine: A hectolitre is 100 litres. Milk is priced on a hectolitre basis. The target price of industrial milk is about \$46 or \$48 per hectolitre. The levies being collected are quite substantial, about \$6 a hectolitre. This is a decision taken jointly by the farmers through this Canadian Milk Supply Management Committee to adjust the national quota and to fund these exports.

Mr. D. W. Smith: So it is not really coming from the taxpayers then. It is coming out of the actual producers.

Mr. Caine: It is a producer decision.

On vote 2103, agricultural technology, development and field services program; item 1, education, research and technical services:

Mr. Chairman: When we adjourned on Tuesday night, we were on vote 2103, item 1. Are there any further comments on item 1?

Hon. Mr. Riddell: I believe Dr. Rennie had a couple of comments he wanted to make on the university budget, which was questioned by Dr. Stevenson.

Dr. Rennie: I have just a little further by way of specifics for Dr. Stevenson when he was asking about the increase in the University of Guelph contract from the ministry in the present year. We talked in general terms about a four per cent increase, which was fairly close. I mentioned it the other evening, and then Dr. McLaughlin added to it.

We had initially budgeted an additional \$1 million to the University of Guelph contract, which was in fact a 4.4 per cent increase over the previous year. Then we added an additional \$150,000, which brought it up to a five per cent increase. That was for the initial stages in the development of the new Ponsonby Research Station. That was one point.

The other point Mr. Stevenson made reference to, and to which Dr. McLaughlin responded, was

with respect to the intention of the ministry concerning the continuation of long-term plant breeding programs and whether we might be shifting that over to the private sector. Dr. McLaughlin answered that in detail.

There is one further thing I would like to add. We are working, as Dr. McLaughlin indicated, with the private sector, with considerable funding coming in from organizations and so on to assist in the breeding program. We are in the process of working with Allelix on a joint project with respect to a long-term breeding program in winter hybrid canola.

By using their scientific resources and our field resources and land base at our research stations and at the university, we felt we could make a pretty good team and could be the front runners in the world.

Those are the two additional comments I wanted to make.

Mr. Stevenson: Just to pursue that. I suppose in 1965 the Ministry of Agriculture and Food funded essentially 100 per cent of that breeding work at Guelph. Now it will be 50 per cent?

Dr. Rennie: I cannot answer that specifically. I know in 1965, taking the university as a whole and taking the agricultural faculties at the Ontario Agricultural College and the Ontario Veterinary College, if we look strictly at the research money we would have been funding close to 100 per cent. There were some dollars coming in from the private sector and contracts.

At the present time, when we look at the university as a whole, our total contract in terms of research, which is slightly over \$17 million, is about 50 per cent of the total research and development budget at the university.

I cannot answer specifically on crop science. It probably would be in about the same category.

Mr. Stevenson: When these varieties are released, OMAF gets some sort of royalty on them does it, or how is that handled?

8:30 p.m.

Dr. Rennie: The way we work on a new variety in the field crop area is that it is owned by the ministry because the majority of the money that has gone into the development of that variety—and that is the case specifically in the plant-breeding area—at least 50 per cent or more is from OMAF. We consider them OMAF varieties, so we own them.

In recent years, we have generally released them to the SeCan Association under a contract between the ministry, the Agricultural Research Institute of Ontario and SeCan. We collect

royalties, which go into a research trust fund, which, in turn, goes back on a percentage basis to the university and to our colleges of agriculture and technology for the field testing that is done.

Mr. Stevenson: I suspect that government funding will probably not keep pace with the cost of those programs. It is quite likely, 10 years from now, the Ministry of Agriculture and Food will be funding 40 per cent of those programs. How do you intend to protect the government of Ontario in the development of those?

Take as an example winter wheat. If they got a very significant research grant on the development of winter wheat and our contribution to that particular program was significantly under 50 per cent, who owns the variety? Do you have a signed agreement or is this a gentlemen's agreement?

Dr. Rennie: We have a signed agreement and we are working on a percentage basis. We wanted to get into a contract with Allelix Inc. because we can see tremendous potential for hybrid canola, particularly winter canola, if we can get that on the market. If we have 30 per cent of the total cost, we retain 30 per cent of the royalties. We want to be a partner in all of these and have some say. We hope to be able to retain the majority vote, and I think in the majority of cases we can. Then we can call the shots.

Mr. Stevenson: At one point, there was some discussion around about Guelph starting its own seed company. That had me a little worried. Has that died off or is that still there?

Dr. Rennie: To my knowledge, that has pretty well died off. It is handling a new rutabaga variety because it was done almost entirely outside of the ministry funding. It is developing the breeder seed. However, the whole field crops area has been pretty well stopped for a private seed company.

Mr. Ferraro: I am told that when the University of Guelph has something that it thinks is quite valuable, it goes through the process of getting patents on it. I got this from a recent conversation with some of the administrators. I understand it costs \$40,000 a crack for these patents. When the ministry supplies research money, does that include the cost of patents? How do you determine that?

Dr. Rennie: No. At this point, we are in the process of changing our patent policy with the university.

Mr. Ferraro: I understand that the university now pays for the patent costs entirely.

Dr. Rennie: That depends on the situation. At the present time, if the ministry's involvement in research led to a particular development which might be patentable and we have less than 25 per cent involvement in the cost of that, say, five or 10 per cent, we say to the university: "Go ahead. If you think it is patentable and you want to take the gamble on it, run with it."

On the other hand, we feel we have a fair stake in anything that is over 25 per cent, so we say we are partners in it. It depends on the magnitude, the cost and how long it took. We will share the cost if we feel it is worth it.

Mr. Ferraro: Proportionate to our involvement?

Dr. Rennie: That is correct. We have not had much in that area yet, but we expect that to increase considerably in the future. That is why we are looking at a change in our patent policy. We are just in the discussion phases at the moment.

Mr. Stevenson: Are there still university workers seconded to Allelix?

Dr. Rennie: I am not sure of the exact arrangement, Mr. Stevenson. I know one of the researchers in the department of crop science has been doing some work for Allelix, but I am not sure of the arrangement.

Mr. Stevenson: To what extent? You mentioned 30 per cent. Is that where you expect to be in the funding of that program with Allelix?

Dr. Rennie: We are not far enough along really to say what the percentage will be on that.

Mr. Stevenson: But you expect to be a major player. You are not talking about five or 10 per cent.

Dr. Rennie: No. We will not have a great deal of upfront hard money. We will have a fair bit in payment in kind, testing at our field stations and colleges and so on, which is all part of the total cost of developing canola. When you put all that in, we are their major player. That is what staff are working on at the present time.

Mr. Stevenson: I am not all that familiar with that program, but I hope you will move ahead with it. I understand it is a very costly program and it is something Allelix can probably do more cheaply than the Ontario government or the University of Guelph. From my knowledge of it, it is something most of our other plant-breeding companies are not going to do because they will not have the people or the money. If it looks cost-effective at all, I would urge you take a fairly significant position in there.

Still on the University of Guelph, what is the current situation with discussions on overhead charges on the OMAF contract?

Dr. Rennie: The current status is that the deputy, myself, Dr. McLaughlin and others have a working document we hope will be our final position, which we will then discuss with the minister. That is in the final stages from our point of view. It will then be discussed with the university, I hope before the end of the calendar year.

Mr. Stevenson: What have we been paying, or should I be asking these questions?

Dr. Rennie: It is a free world, Mr. Stevenson.

Mr. Stevenson: It used to burn me pretty extensively to work for months to get a significant research grant from whomever, and then have the university take 40 per cent off the top as soon as it came through the door. Anyway, we got to be fairly good liars, but it still hurt.

Dr. Rennie: As chairman, I do not know whether to answer that question directly or facetiously, since Mr. Stevenson was a former employee of the university and, I am sure, benefited from the overhead component.

Mr. Stevenson: I am sure I did. I do not disagree. I think it was 40 per cent when I was there. I used to have a little trouble believing it was that high.

Dr. Rennie: At the present time, the formula is that we pay 40 per cent of the direct costs of the research, service and education budget.

Mr. Ferraro: What is the federal component?
8:40 p.m.

Dr. Rennie: That has varied all over the map. Universities—not just Guelph—would dicker on contracts and the overhead would settle in on what would allow them to get the contract. The federal Department of Supply and Services has now been paying about 40 per cent, I believe, or approximately that. They have different types. Some are based on salaries and benefits and some on total. Some include equipment and some include operating. So it is difficult to say.

Mr. Ferraro: I was told recently it was 62 per cent; that the feds had just come up with a new program and that they were paying 62 per cent.

Dr. Rennie: They are talking about that, but that is not a total direct. It is my understanding that is on the salary component; if we looked at ours, it would not be far off that.

Mr. Stevenson: I have a few more questions, but perhaps somebody else wants to get on.

Mr. Ramsay: I am wondering how the declining industry in agriculture is affecting, if it is at all, the enrolment in the University of Guelph.

Dr. Rennie: Maybe the deputy minister could help me on this a little, and I will ask Don Taylor to comment for me on our agricultural colleges. As far as the university of Guelph is concerned, in the diploma program we budget for an intake in the first year of 220 students. The last count, which you had last week, was 215, which is basically what it was a year ago. It is down a bit, because prior to that they could have taken 250 or 300.

Maybe Dr. Switzer would comment on the degree program. I believe it is up this year, compared to a year ago. Dr. Switzer, is that correct?

Dr. Switzer: I think Dr. Rennie is right on. The enrolment in the degree program has slacked off in the last two or three years. It is up slightly this year, but it is still markedly down from where it was a few years ago.

Mr. Ramsay: How does that affect our overhead costs? I imagine the costs remain the same to keep the institution going, but if there are fewer tuition fees coming in, I suppose we are getting less value out of it. Would there be any advantage to promoting enrolment? Do we have promotion programs for encouraging enrolment?

Dr. Rennie: Very much so. I will ask Don Taylor, the principal of Ridgetown College of Agricultural Technology, to comment on the diploma as it affects our colleges. Before that, though, with our present budget, and last year and the year prior to that, we were working on a 220-freshman student intake. A drop of five students is so insignificant it has no bearing on the overhead component per se. If it drops to 210 or 200, that is a different matter.

Mr. Ramsay: You said last year it was 250 to 300.

Dr. Rennie: I am sorry if I misled you on that. What I meant was that because of the interest prior to, say, last year, in the diploma program, not only at Guelph but at our other colleges—however, let us take Guelph itself—when they looked at those students who applied and had the proper qualifications, they could have taken, Dr. Switzer, 250 to 300 in the diploma program without any problem at all. That is what I meant by that. We budgeted for what was the capacity. I remember arguing with our present deputy when he was dean that he should have taken 300, but they did not have the capacity.

Mr. Ramsay: They bought you off, did they?

Dr. Switzer: No comment.

Dr. Rennie: I would like to ask Don Taylor to comment on the enrolment picture as it applies to our colleges of agricultural technology in the ministry.

Mr. Taylor: Colleges of agricultural technology, as you are all aware, have just a two-year diploma program. Our peak year for enrolment overall was probably 1983. We declined slightly last year, and at least four of the five colleges have had fairly significant declines this year in junior student intake. Alfred College, the French-language college in eastern Ontario, has maintained figures similar to last year's, but most of the other four—Ridgetown, Centralia, Kemptville and New Liskeard colleges of agricultural technology—are down in the neighbourhood of 20 to 30 per cent.

Mr. Chairman: Mr. Stevenson, before you go on, we have drifted down to item 2, which is just fine with me. Item 3 is other education and research. Why do we not deal with those three as one item?

Mr. Stevenson: All right.

Mr. Taylor: Does that answer your question?

Mr. Ramsay: Yes. I am finished with that line of questioning.

Mr. Stevenson: What is the current status on the horse research unit? Is that going ahead?

Dr. Rennie: You are referring, Dr. Stevenson, I am sure, to the equine research centre, called the Guelph equine research centre now. It is progressing quite well. There is a board of directors in place for that program, advisory in nature. It is being run by the university.

Those in the private sector have agreed to fund the capital for the development of the equine research centre. The capital will refer to facilities on the campus. It was decided about a year and a half ago that, considering the availability of funds and so on, they would not go to a field research station at this time. They would do it on campus. I do not have the exact figure, but I think they have raised close to \$1 million either in actual, hard, cold cash or commitments from the private sector.

The operating capital comes from the Ontario Racing Commission, from the Ministry of Agriculture and Food and from other grants. They are now in the process of selecting a director. The president of the university informed us last week that they expected to be in the building phase come spring.

Mr. Stevenson: Where is that going to be located?

Dr. Rennie: It will be over on the Ontario Veterinary College side—I cannot give you the specific location—back by the clinic, I believe. It is progressing well.

Mr. Stevenson: You mentioned vets, so I suppose we can carry on with vets. This past summer \$6.5 million was allocated. What further needs does the veterinary college have in capital and operating financing to get back and keep its certification, or whatever the proper terms are.

Mr. Ferraro: And the increase in overhead costs.

Dr. Rennie: I am not sure I can answer that specifically. My knowledge is that the \$12.5 million that will be going into the vet college for capital—cost-shared, provincially and federally—will set it in a good position from the standpoint of accreditation. We feel fairly confident that capital, accompanied by the farm animal health improvement program we are funding to the extent of \$1.8 million on the operational side, will put the college in good shape.

That \$12.5 million will provide them with new facilities as well as renovation of some of their older facilities. When that is completed in a couple of years, I think they will be in an excellent position.

Mr. Ferraro: Are you saying that in a couple of years Guelph can apply again for its accreditation?

Dr. Rennie: I am not sure I can answer that. Maybe Dr. Switzer can help me. I believe they come back about every five years. Is that correct?
8:50 p.m.

Dr. Switzer: The rules on accreditation for the veterinary colleges in North America are, as Dr. Rennie said, a review or at least a look every five years. The college either loses its accreditation or is given, as Guelph was, a tentative accreditation. Then it is given five years to put its house in order. The committee comes back and looks at it at that time.

It is my understanding that with the new facilities and the additional funding the ministry is putting in, the Ontario Veterinary College will probably be in pretty good shape to get its full accreditation back at the time of the groups's next look at it. Obviously, nobody can say that for sure. That is why the accreditation committee will see whether it has met all the requirements. Then it will make the decision as to whether it is given accreditation at full status again.

Mr. Stevenson: With respect to legislation in the area of veterinary medicine, there is concern among some veterinarians in the area of ovum transplants and the number of people working in that area. I am not sure how widespread it is. Some of them basically are technicians and there is not much control over that part of the industry. Are any regulations likely to be established to define more clearly what is allowable and what is not?

Dr. Rennie: The Veterinarians Act is under review and will be coming forward in the not-too-distant future. That problem will be addressed there. Also, the Artificial Insemination of Live Stock Act is being studied at present because things have changed in the artificial insemination business since it came into effect many years ago. It will be addressed there as well.

It is a very interesting question because the whole area of biotechnology and genetic engineering, freezing of embryos, splitting of embryos and cloning will require and will be receiving a lot of attention. That is why we are looking at it now. From my own feel for and knowledge of the industry, I do not think there is any problem there yet, but I could be misjudging it.

Mr. Stevenson: Are we successfully splitting animal embryos yet in Ontario?

Dr. Rennie: Not to my knowledge, but we are right on the verge; it is coming.

Mr. Stevenson: I know the sexing of animals has not been terribly successful to this point. What do you foresee happening if it should become successful? There could be a monumental effect on our beef industry, particularly on dairy beef, if it happened. Do you see any control over it to try to maintain the traditional types of production? Do you hope it never happens?

Dr. Rennie: No. I hope it does happen. They have been trying to sex semen since before the turn of the century. They are still working at it. They thought they had some breakthroughs, in the late 1960s in California, with rabbit semen but it proved to be just a fluke.

Mr. Stevenson: Too fast.

Dr. Rennie: They were too fast. They could not catch them.

Mr. Ramsay: This is getting interesting.

Dr. Rennie: I think it is going to come. I would be willing to say that perhaps within 10 years we will have the sexing of semen. We will have the sexing of embryos before that. Basically they can do it now. I believe it is a six-cell stage.

Do not quote me on that, but it is about that. That will be quite common very shortly.

The semen aspect is a little different but I think we will have it. It will have a tremendous impact, a fantastic impact and we are encouraging it. The Agricultural Research Institute of Ontario has recommended to us that we should try to direct more effort to that area because of the potential it holds.

Under our present selection and breeding systems, in dairy cattle alone we can gain about one per cent genetic improvement a year. We could probably double that by going into the sexing of semen. As you say, in beef cattle the potential it holds is just fantastic. It is one of the big potentials and we want to see more effort there.

Mr. D. W. Smith: If it does prove to be as successful as you hope it will be, do you not think it might create more problems for the industry? We have overproduction now. Are we not liable to have even greater production than we have now?

Dr. Rennie: No. You can be more selective in the ones you keep. You would not have to keep as many. You could make more genetic improvement and have higher quality stock for sale, for export. There are many pluses. That does not necessarily mean more animals. It means the same or fewer animals. However, it means better quality, higher productivity and better efficiency in the system. That is the potential it holds.

Mr. D. W. Smith: Maybe that is what we hope will happen. Is our export market going up, is it stable or is it starting to go back down again? The farmer has a tendency to keep larger numbers rather than good producers, if you are talking about milk.

Dr. Rennie: When you look at cattle, semen and embryos, the export market now is tough. There is a lot of keen competition, particularly from countries such as the United States, West Germany and Britain. The market is a shade flat at present but as long as we keep applying this new technology and keep one jump ahead of our competitors we will be okay.

To get in my own plug, continued research is important in these areas to make the technology available for the breeders so they can be that one step ahead of their competitors. It is a tough world out there.

Mr. Stevenson: I have another question about the veterinary area. I am not sure of the proper term but I will try to explain myself. There is some sort of animal disease act, contagious

disease act, or whatever it is, that Ontario does not have.

Dr. Rennie: Yes.

Mr. Stevenson: What is it called?

Dr. Rennie: It goes by different names such as the animal health act.

Mr. Stevenson: The situation I ran into concerned a dairy herd that got viral diarrhoea, the very serious diarrhoea problem some herds run into. It was of epidemic proportions in the herd. Somehow they got it under control, got the cattle back up to something close to a normal degree of finish and the herd was sold. Some of the vets in the area were quite concerned about the way the situation was handled but apparently there was nothing they could do about it.

9 p.m.

In the development of the act that apparently is at least getting some consideration. Is that type of incident going to be under the control of that act or is that disease widely enough spread that there is not much you can do about it?

Dr. Rennie: I cannot answer specifically for that condition because I do not have any of my documentation on it in front of me.

What a provincial animal health act would do compared to others would be to allow the provincial government to place a quarantine on a herd if a condition developed that appeared dangerous to human health. That would particularly apply if it were in milk or meat such as salmonella or if it were serious enough, as in the case you mentioned, so that it could be spread to another herd through sale dispersal. It would likely have to be a condition where veterinarians did not know what it was. The herd would be put under quarantine until such time as it could be determined that it was a particular type of virus or whatever.

There is the whole matter of compensation. If your dairy herd is closed down and you cannot ship milk for a week, you have a considerable financial loss, but that is what it is all about.

It would apply to diseases that do not come under the federal legislation. They handle reportable diseases such as foot and mouth disease and so on. If that is reported, boom, it is closed; that is federal action. These would be conditions that fall outside that.

This has happened as you may know. Dr. Frank is here and can relate a couple of conditions that have happened in Ontario in that respect. A pesticide or something of that nature is accidentally mixed with feed and the cattle become sick. You do not know what is coming

through in the milk so you have to quarantine. That is where an animal health act would come into play.

Mr. Stevenson: Is that close to being ready to bring to the Legislature, or is it two or 10 years away?

Dr. Switzer: It is somewhere between soon and two years away.

Mr. Stevenson: I like the smiles here. Is there some problem with the development or does it just take time?

Dr. Rennie: I will add to Dr. Switzer's comment. Our staff has been working quite hard on it this past six months. There is a lot of detail left and we have to dovetail it with federal legislation, but they are working very hard at it.

Mr. Stevenson: When the Veterinarians Act comes forward, are we likely to have a lot of concern from animal health technicians and so on, the same sort of fuss we got into with the Professional Engineers Act, the Architects Act and so on? Will there be concerns about jurisdiction in animal medicine by various professional and technical people?

Dr. Rennie: I hope that all those concerns will have been resolved before it hits the floor of the House.

Mr. Stevenson: I hope you are right.

I would like to go on to another area, the banning of chloramphenicol. It was the drug of first choice in a great many situations. Do we have any other drugs coming along in a comparable price range with anywhere near the same effectiveness?

Dr. Rennie: I cannot answer that. I will ask Dr. Ashman, a veterinarian—a red meat specialist actually—to help.

Dr. Ashman: You will appreciate that most drug companies are unwilling to tell us at this point what is coming along, pending proper testing in the research and so on for its development, so I think it would be fair to say we are unaware of any new panaceas on the horizon at this point.

Mr. Stevenson: How long does a company have a patent or whatever the term is on a drug like chloramphenicol?

Dr. Ashman: I cannot comment on that because I do not know. That is under federal jurisdiction, as you will appreciate. I know concern has been expressed about the development of generics in the human field. I have tended not to hear that concern to the same extent in the veterinary field. Presumably that is all

under the control of the health protection branch of the Department of National Health and Welfare.

Mr. Stevenson: I understand 17 years is a maximum for that. There are a few reasonably good drugs on the market now with a fairly broad-scale application. One drug I am familiar with is about \$18 a shot; it gets a little expensive when you have a few calves with pneumonia and you are trying to treat them with something along those lines.

Another situation is very common in Ontario because we have a fruit and vegetable industry that is vital to Ontario's economy but which is not terribly significant on a North American scale. We have products such as Goal coming along that are approved in other areas but are not approved here. We are probably getting into a very lengthy list of products, and companies are going to be relatively unwilling to spend much money testing them for the Ontario market. How do you plan to deal with that situation to try to keep Ontario producers competitive with those in other jurisdictions?

Dr. Frank: It is a difficult situation because in many cases the chemicals were registered in the United States 10 years ago when the package required by toxicology was not as stringent as it is today. For registering in 1985, the packages are somewhat deficient.

Recently we met with people from the Environmental Protection Agency. The EPA is reviewing the present toxic packages on those materials that were registered back in the 1970s and it will be asking companies to fill in the gaps. I am encouraged that the EPA is starting to ask that those packages be filled out. It will certainly improve our situation.

Concerning Goal specifically, it was given a temporary registration in Canada, but as you know we had problems at the provincial level in allowing it to be used. I understand it will probably be back as a temporary registration for 1986.

The problem we experienced in Ontario was that while Agriculture Canada went ahead and gave it a temporary registration, it did not have the approval of the Department of National Health and Welfare. When the Ministry of the Environment reviewed Goal, it called and talked to National Health and Welfare, which did not support the package. However, it has been more or less agreed that a discussion paper will be developed that will be acceptable to all parties. We are hoping this will help to resolve the differences that exist in 1985.

Dr. Stevenson: Run that past me again. Do you expect to have a package that will meet the approval of both Agriculture Canada and National Health and Welfare?

9:10 p.m.

Dr. Frank: We hope they will not be opposed to it and will go along with it. They will not likely agree to the package with every "i" dotted and every "t" crossed, but we hope they will accept that basically the package is acceptable from their point of view. We are hoping that. The company has actually submitted more data to fill in the missing gaps, so we are hoping we can come up with a compromise position.

Mr. Stevenson: What is the word out of the Ministry of the Environment here? Do you anticipate Goal being on the market in Ontario next spring, or are you expecting continued problems with that ministry?

Hon. Mr. Riddell: As long as it has been approved by Agriculture Canada and Health and Welfare, we should not have any problems with the Ministry of the Environment here.

Mr. Stevenson: Is there a chance that both of them could turn it down?

Dr. Frank: Anything could happen, yes, but I am hopeful. Last year one of the problems we ran into was the report coming out of Health and Welfare telling us what was wrong with the package. We did not get a total picture. We did not know what was okay in the package; we knew only what was not, what was absent in the package.

This year with the more balanced approach we will get a total review of the package with some indications of its weakness. The package is quite strong. It is strong enough to register it in the United States and most European countries. Most of the world has registered it. The package is fairly strong but there are some weaknesses in it. We are probably going to come to a compromise position.

Mr. Stevenson: Are the US Environmental Protection Agency standards likely to be stringent enough that Health and Welfare will accept them on most new products coming in from the United States, or are we going to be faced with a continuing holdup at the federal level?

Dr. Frank: I am encouraged by what the EPA is telling me. When Reagan became President, he relaxed the requirements for the toxicology package, for registration. A number of studies that had been in the package prior to him becoming President were dropped. Now they are

being put back in again so the two packages in Canada and the United States are much the same.

What has happened is that Canada has not really changed the requirements over the years, but the Americans dropped their standards. Now they are bringing them back up, very close to Canadian standards. We have the most stringent standards in the world. Maybe they are too good. Maybe we should not have the most stringent. That has been the argument, that we were too small a user in the world market to have such stringent standards.

Mr. Stevenson: How many other products in the fruit and vegetable area are held up right now in similar situations?

Dr. Frank: Conservatively, there are probably six or eight at least, if not more.

Mr. Stevenson: Are there many cases where we are into a real concern that there is no product available to use?

Dr. Frank: We certainly are with the Goal issue, yes, and—stepping into the intensive cereal products management with things such as Bayleton and Sencor—for that program to go, it is almost dependent on getting registration for these materials, as is done in the United States and Europe.

Mr. Stevenson: Is the situation with Bayleton going along the same lines as Goal?

Dr. Frank: Yes, much the same. There is a Food and Agriculture Organization-World Health Organization evaluation of that product, so on a world basis we have a summary of all the data that are available on that product. Again, it was registered in the early 1970s, at a time when the packages required were not as stringent as they are in 1985. They have come now to register them in Canada and standards have gone up. That has been the problem.

Mr. Stevenson: There is a federal study on right now on a certain corn and soybean herbicide in Ontario. Is there any indication of what is coming out of that or what action may be taken, if any?

Dr. Frank: The review board has been named, as you know. Chief Justice Evans has been appointed to preside over that board. They have nominated four leading scientists: Dr. Emmanuel Farber from the University of Toronto, who is a leading world authority on cancer; Dr. Plaa of the University of Montreal, who is also a leading toxicologist and advised on the Caplan hearing; and Dr. D. Freshwater, from the Department of Agricultural Economics at the University of Manitoba. I think he is an

agricultural economist. There is a fourth gentleman who is from the United States, Dr. Rowe, who is an expert on risk-benefit.

This review board will be convening within the next month or so. I do not know when they will start the hearings, but I would think early in the new year. They will review all the current information on our part and make a recommendation to the Minister of Agriculture some time in the new year.

Mr. Stevenson: Was the recent press report a presentation? That could not have been a presentation to that board.

Dr. Frank: No, the board has not convened yet.

Mr. Stevenson: Is similar action going on in the US?

Dr. Frank: Yes, there is a review board, but the US does not work as rapidly as we do in Canada. We can do a review in a year; it takes them two to four years to do a thorough review, because they must take it through the court system.

Mr. Stevenson: What would your best guess be as to whether that product would be available for use next spring?

Dr. Frank: I will throw a coin and you can read whether it is heads or tails. I will not predict on that.

Hon. Mr. Riddell: Dr. Frank is our representative on the pesticides advisory committee and the Minister of the Environment (Mr. Bradley) receives advice from that committee. I doubt he would turn a deaf ear to advice from capable people such as Dr. Frank.

Mr. Stevenson: By that comment, I did not doubt Dr. Frank's capability. I wish I were as confident about some of the others in the system.

I had some other questions but I have forgotten them. Does the member for Timiskaming have any?

Mr. Ramsay: Not on this.

Mr. Stevenson: I do not like to let these guys off this easily. We have not even made them work yet.

Mr. Villeneuve: Possibly I could put a question here while the member for Durham-York (Mr. Stevenson) is working away. I believe there is a certain soybean herbicide—based on some rather sad experiences that have occurred with soybean growers, particularly in parts of the so-called fringe areas or the colder areas of Ontario—I am speaking of a certain product put out by Chemagro Ltd. called Sencor and Lexone.

I understand recommendations in publication 75 are being changed, pertaining in particular to the atrazine or triazine residues. Would you comment on that?

Dr. Frank: I have not been directly involved in this, but I understand that work was done at the Ridgetown College of Agricultural Technology. I am aware some Lambton growers had damage, but they were not able to reproduce it in Ridgetown. It baffles me a little as to what is going on, but we did some analysis of some sort of beans that had been treated with Sencor and did find an elevated level of atrazine. This might support what you are saying. But in the field we would be far less able to prove this.

9:20 p.m.

Mr. Villeneuve: I think you would find it in the less prolific type of beans that are being grown in the so-called fringe areas. I suppose we could speak of Evans and Maple Arrow as two of these which do not tend to make up for what has been really damaged to the point of no return.

I would strongly suggest that Kemptville and Alfred colleges should do some study on that phenomenon. I speak from personal experience that this has to be looked at more closely by the ministry, particularly when some American states are literally putting very heavy caution warnings on these triazine-based soya bean herbicides, particularly in those areas that are fringe areas. If it were possible, Kemptville and Alfred could be involved and they are in the so-called fringe areas.

Dr. Frank: Yes, I imagine Dr. Rennie might answer that one, but from what you say there is a fair amount of evidence when you come to tomato varieties that there are differences between tomato varieties with Sencor. We have also seen that with potatoes, so I am not surprised it could happen with soybeans.

Dr. Rennie: I do not have any further information on that, Mr. Villeneuve. I would be glad to check with John Curtis and get back to you. I cannot recall any report coming in on it. I will check with them and let you know. We have not received any complaints through our county offices in this respect, but we would be glad to check that out and have the minister respond.

Mr. Villeneuve: I believe if you were to check with Peter Epp of the Soya Bean Marketing Board he could tell you some rather sad situations which have occurred with that herbicide. There should be more emphasis on the fact that it is basically aimed at Velvet Leaf and, if you do not have Velvet Leaf, I would like to see something

on there that says it should not be used, particularly if there are triazine residues.

Mr. Stevenson: From time to time we see press releases on the use of hormones in milk production. Some pretty phenomenal claims are made. How true are those claims, are we doing tests on that in Ontario, and could you give us just some general background information?

Dr. Rennie: The word coming out of New York state would indicate that it looks very reliable as far as repeatability is concerned. To my knowledge, we are not doing any at the present time. There is a lot of interest in it. It is not likely that this would come on the market for several years, as I understand it. When you start talking about a 30 or 40 per cent increase in production as a result of hormone treatment, it is rather phenomenal. It scares you a little bit when you already have an adequate milk supply.

On the other hand, when you stop and look at it a little bit, it is my understanding—I have not read many of the scientific papers on it—the cattle have to be treated every day. I do not think many milk producers in Ontario are prepared to treat every cow every day to get that. You would have to look pretty closely at the cost-effectiveness.

I know the animal scientists at Guelph are looking at it. I might ask Don Taylor. Do you have anything further to add to that, Don, being a dairy specialist?

Mr. Taylor: As a farmer and a very out-of-date dairy specialist, basically I would just echo what you said. When you refer to treatment every day, that currently means needling every day, because growth hormone is a protein that would break down in the digestive tract if you gave it orally. That would seem to be the main drawback of it at present, but the data look to be very real. It is not an average of 30 or 40 per cent, but milk production increases to a significant degree.

Hon. Mr. Riddell: My guess is that consumer groups are going to have something to say about some of these materials we are pumping into livestock to step up production. We are starting to get reaction now and I think we are going to get more of it over time. It may well be that we are going to have to rely on natural production and not forced production with the use of these materials such as hormones.

Mr. Stevenson: Is this a natural hormone?

Mr. Taylor: Yes, it is a natural hormone. It is synthetically produced in this case, but all animals produce it naturally in any case.

Mr. Ramsay: Before we move on I would like to echo the minister's words there. I think

consumers are more conscious of what they consume now in the food supply, and the trend is going to go to fresher foods and more purity. We saw that start in the 1960s as fads among a certain segment of the population, but now the population as a whole is starting to move that way.

I think we are at the point, too, where our main concern is not pushing production, because that is probably part of our problems in agriculture, but it is to get a better product, a purer product, so we will make the consumer happier. In any studies I have seen, the consumer is willing to pay for a superior product, a product that would ensure health rather than maybe being detrimental to it.

Mr. D. W. Smith: Dr. Rennie, what has your research department done on ethanol or anything along those lines? Does it have any great programs going?

Dr. Rennie: I will ask Ken Boyd, one of our agricultural engineers and co-ordinator of our engineering service in Ontario, to comment on that.

Mr. Boyd: I am not aware of the extent of any research on ethanol, but there has been one on-farm, farm-scale project to explore the feasibility of alcohol production. The general conclusion has been that it is still not at an economical phase for farm-scale production.

Mr. D. W. Smith: Have you any dollar figure?

Mr. Boyd: Not at my fingertips. I think it is in the order of two and a half times the cost of gasoline at the present time, in that range.

Mr. Villeneuve: Based on what price of corn?

Mr. Boyd: I cannot tell you that at the moment. I think these figures would be two years old.

Mr. Villeneuve: That is when corn was \$200 a ton.

Mr. D. W. Smith: Is ethanol the one that will mix directly with gasoline, or is it the one that does not?

Mr. Boyd: It depends on the purity. Either ethanol or methanol will work; it depends on the purity.

Mr. G. I. Miller: Manitoba and the other prairie provinces are using it to some extent at present, are they not? Do they not have a plant? Do you have any information on that?

Mr. Boyd: I believe Manitoba has a commercial-scale plant, not a farm-scale plant.

9:30 p.m.

Mr. G. I. Miller: Do you have any background on how it was established?

Mr. Stevenson: Is it not the old Gilbeys' distillery that went bankrupt in Manitoba? I think Mohawk Oil took over. They are fermenting barley. I have not read that information for a long time, but that is my recollection.

Mr. G. I. Miller: I noticed an article within the past week. I think the federal government is taking another look at it. It has been kicked around for a while. It does two things, I believe, although I am not an expert. It cuts down the emissions from gasoline if it is mixed—it is good for the environment—and we have a surplus of products. It might be alternative market; maybe we should be looking at it as alternative for our farming community.

Hon. Mr. Riddell: We discussed this earlier in the estimates.

Mr. G. I. Miller: Did you? Okay.

Mr. Stevenson: I just recalled some questions I wanted to ask. What is the philosophy in the near future about services operating out of the county offices? Do you hope to maintain a general type of storefront service out of those offices, or are they likely to take on some change in direction? What is about to happen?

Hon. Mr. Riddell: You have probably been getting the same complaint I have as I travel around the province, and that is that the agricultural representative's role seems to have changed considerably over the past 10, 15 or 20 years. According to these complaints, ag reps appear to be so burdened with paperwork and seminars they do not seem to have time to get out to talk to the farmer across the fence and see at first hand what the farmer's problems may be.

With the specialists we have in the ag rep offices, I think we are providing an excellent service to the farmers. It may well be the ag reps would like to get out to do more field work, if I can use that terminology, but they have been very busy with the farm account books, trying to help the farmers with their management, the accounting and all the different programs we introduce. The ag rep is responsible for assisting with the applications.

There is no question the ag rep is kept busy right in the office and just does not have the time to get out the way he used to. Maybe Dr. Rennie can comment on what he sees as the ag rep's future role or whether he feels there should be a change in that role.

Dr. Rennie: I would like to make a comment or two. Then I will ask Norris Hoag, director of

the agricultural representatives' branch, to comment as well.

The role of the agricultural representative has changed in the last two or three years, to some extent because of what the minister has just said. A number of programs have come in aimed primarily at helping farmers in the whole area of farm financial management, an area that has not received, in our thinking, as much attention in the past as we think it deserves today, and that has put a requirement on the ag rep.

In addition, our philosophy now, and I hope it will continue, is that each of the 54 agricultural representatives in the county and district offices is the manager of that office and co-ordinator of ministry programs in that county or district. In other words, they co-ordinate the activities of the specialists who serve that particular area, using the team approach to solving a problem or problems. That is our philosophy, and it may be a little different. It does mean the agricultural representative as an individual is perhaps not visiting individual farms and going on the road to quite the same degree I was some many years ago, or as the minister was.

There is a role there, and we think a very important role, from the standpoint of delivery of ministry programs and co-ordinating our human resources, our specialists, be it in animal pest management, soil or red meat programs, to get the most effective delivery of service from those resources we have. Norris, I would appreciate it if you would comment on this.

Mr. Hoag: In talking about the role of the agricultural representative, I think it is probably good to clarify the term "agricultural representative." As I perceive it in the rural area, the term may be applied to a number of ministry staff who are working and functioning out of the agriculture office.

The specific title "agricultural representative" resides in the agricultural representative of the branch, but there are a number of other ministry staff working out of those county offices, all dealing with farmers. They are members of the plant industry branch, members of the animal industry branch, specialists who are providing service to farmers. I am not sure it is really all that important to us from a classification point of view, but I believe farmers in general try to look on them as one group of people, and I think that is quite right.

The mandate for the agricultural representatives is really threefold. First, they carry a major role in farm management. When I use the term "farm management," I think we are looking at it

in the broad sense in that it really is very difficult to separate production management from business management. Therefore, the agricultural representative is really involved in both.

A second role of the agricultural representative is as manager of the ministry store front. As such, he is involved with delivering many of the ministry programs sponsored by the farm assistance branch. I think you will note that within those programs in the last two or three years there is a very heavy management element. Many of them are now encouraging farmers to keep the tools of management within those programs, to keep proper records to use in a management function.

The third role of the agricultural representative is to be the program co-ordinator, with a number of staff delivering programs. The agricultural representative works in assessing the needs of the particular area he is serving and ensures the resources of the ministry are brought to bear to try to work with the local people in servicing those needs.

The role of the agricultural representative over the past 78 years has changed considerably from time to time to meet the needs of the particular day. If we look over that period at the history of the agricultural representative, that role has not been a static one. Ten years from now we may very well be sitting here talking about the changed role of the agricultural representative, merely because he will have moved into an extension area to meet the needs of that particular time.

At present, we are desperately trying to work with farmers who are suffering financial stress, and that is taking a good deal of our time.

9:40 p.m.

Mr. Stevenson: Are you satisfied with the level of communications between specialists and the agricultural representatives, particularly when those specialists are not in the same office? They may be spending one day a week in another county office or something. Do you feel the local agricultural representative is being adequately informed of the activities of the specialist in a particular county and that it is functioning as well as it is intended to function?

Mr. Hoag: I suspect that communication in any organization is always a problem. It is something that as human beings we have to continue to work at.

In the past two years, the field service section has undergone a study, and that is one of the issues we have looked at very directly. Out of that study we have developed a philosophy to do

with line management versus functional management, trying to establish not only the line relationship of who reports to whom from an administrative point of view, but also to formalize the functional relationship of colleagues working in the field.

I think you would have to agree that we are dealing with a complex business and, as Dr. Rennie indicated, the only way we can cope with it is on a team basis. That means the shots have to be called on the local level and we have to bring the resources the ministry has locally to any problem that exists.

From time to time there are problems with communications, but by and large I am happy with the way the system is working.

Dr. Rennie: I might add that our present organization was set up to facilitate the kind of thing Mr. Hoag has been talking about. David George is executive director of advisory and technical services, so he can have a direct handle on the players in the whole specialist extension field. It is working extremely well.

Mr. Stevenson: With respect to the specialists, I am not sure what the proper term is, but I refer to the rural organizations and services branch people. Does every office have an ROS person stationed there at least one day a week?

Dr. Rennie: I will answer that, and maybe Peter Fleming might come up to assist me with this. Mr. Fleming is representing the rural organizations and services branch here this evening.

We do not have a specialist from the ROS branch in every office. They service two or three. Mr. Fleming might briefly explain how it functions when one specialist covers more than one county or district.

Mr. Fleming: All the offices are covered except for about half a dozen instances, which are offices that may have fewer programs dealing with rural organizations than is normal. A specialist assigned may be assigned to more than one county and in some cases there may be two specialists across the county boundary, but they are both covering the county in particular areas, usually in co-operation with the agricultural representative as the team co-ordinator.

There is a schedule established where the ROS specialist will be in the office at least one day a week and usually two days, but they do not actually reside in that office.

Mr. Stevenson: Just as a matter of curiosity, how are the numbers of 4-H members? Are they staying fairly constant?

Mr. Fleming: Yes. This year's statistics are being compiled now. Last year's total was around 21,000, which is up about 1,000 from the year before. Our three-year average is approximately 21,000. We are seeing it stay consistent.

Mr. Stevenson: Are you satisfied with the delivery of the 4-H program under the present setup?

Mr. Fleming: Yes. With the present setup some advantages have taken place. We now have a streamlined administration where we used to have an agricultural part of the program, administered by one branch and different people, and a homemaking part. By combining that under the sponsorship of the ROS program we are finding we can merge the best of both under one administration.

The thing we have been emphasizing most in the past year, and will in the upcoming couple of years, is providing resources and training for the individual 4-H leader. There are about 6,000 in Ontario. By using better techniques to work with the leaders and providing better resources for them, we feel they can play a more vital role in the delivery of the 4-H program and provide us with more input on what the needs of the members are so that we can channel our resources that way.

Mr. Stevenson: Is it safe to say the 4-H leaders are carrying a much heavier load today than they were five or 10 years ago?

Mr. Fleming: It is a hard question. It depends on whether we are talking about time or quality. Certainly in some areas of the program there is more dedication on the part of the leaders with respect to providing input into some of the planning of the activities. To balance it, some of their responsibilities with respect to developing their own resource materials have diminished. There are some new areas opening up for leaders to be more closely involved with the program, and training is being provided where required.

It is still voluntary. We are exploring the avenue of having people involved as actual leaders and then nonleader volunteers involved to assist maybe with judging competitions or assisting with some of the 4-H activities, whereby they are not committed to having to go to every meeting of the club. They are involved as volunteers with that particular club.

Mr. Stevenson: Are these leaders required to take some training or can they just walk in, pick up the material and start cold?

Mr. Fleming: In about 85 per cent of the cases this year the leaders did receive training. At our

4-H policy convention in 1986 we will have all 4-H leaders new to the program receiving an orientation on the general philosophy of 4-H, as well as receiving technical training in the particular subject area they are covering.

There has been technical training in all the homemaking-oriented projects. In the last couple of years we have been emphasizing that with the agriculturally related projects. Still, with the leaders who have been with us for 20 years or something, we are not going to make it mandatory to take technical training if they feel comfortable with the program. We will be making it available and encouraging them to attend if they feel the need.

Hon. Mr. Riddell: I would be interested in hearing your concerns, Dr. Stevenson, about the present system as it is structured. Do you not feel we are providing the same service in our agricultural representative offices and to the 4-H club members?

Mr. Stevenson: I am just aware of situations in which there have been problems. I have not had the opportunity to do a thorough investigation about whether they are any more widespread now than they were 20 years ago. As usual in any volunteer organization, service club or anything else, it depends so much on who is involved and how good the leaders are, how much time they have and how committed they are. Also, it depends a lot, year by year, on just which young people are in the club as to how motivated they are.

9:50 a.m.

I do not have enough information to make any general statements. As I say, I am aware of some rough spots but not aware enough to know exactly what the problem is. One is tempted to speculate, but I do not have the necessary information to suggest what the actual cause might be.

Mr. Villeneuve: I have a couple of questions related to the personnel. This may well have been solved. I had a request from a group of French-speaking people from the city of Cornwall who were looking for more services in French from their home economist and dietician. Apparently there is an excellent program on cooking with microwave equipment. The question came to me via correspondence. I did speak to one of your personnel people in Kemptville. Can you tell me what is happening in that area?

Mr. Fleming: I talked to Mr. Cameron in Kemptville, who is one of our regional supervisors, and he was aware of the demand for that

microwave cooking program in French. At last report he had contacted a bilingual home economist down there who was going to fulfil that role for us on a fee-for-service or contract basis to ensure that all people who wanted to take that program in the French language were served.

Mr. Villeneuve: I have always associated the OMAF offices across Ontario with rural Ontario. I am starting to notice, and I am putting this in the form of a question: have you people noticed that we are getting a lot more requests for advice and assistance from people who are not so rural, that the clients of the OMAF offices are becoming a lot more urbanized? Have you noticed that in the past five years?

Dr. Rennie: I do not think there is any question that is happening, as you would expect. There are two parts to that question; one is in the rural areas and then there is the urban area. I am going to ask Margaret Toivonen to comment on the kind of response and questions we are getting here in Toronto from a consumer point of view.

Let me deal with the field first. We think this is probably good, to a degree. We also think it is good to have, in some of the clubs, a good mix of what you might call urban 4-Hers from small communities; that helps sell the story of agriculture and food to the nonproducing sector.

Ms. Toivonen, do you want to comment on our consumer information centre here at 801 Bay Street, from the standpoint of the volume of business and the type of business we are getting in this respect?

Ms. Toivonen: The consumer information centre at 801 Bay Street has been open in its new location for a year. In volume we are receiving 3,000 inquiries a month. Last year, our first year, we had more than 30,000 inquiries. That figure is on the increase because so much of our business is through word of mouth and through fairs such as the Royal Agricultural Winter Fair.

It is going extremely well. We have six staff members—four professional staff and two support staff—and they are kept busy all the time. It is difficult for them to do other things given the pressure that is coming in from the public. The public in Toronto is very receptive to the service.

Mr. Villeneuve: I would encourage that, because right now we have to realize that many of our consumers possibly are not like our mothers, who were born and raised with a farming background. A large majority of our consumers today can benefit a great deal from the likes of the information the dieticians have been giving about the new microwave cooking.

Speaking as a beef producer, I think we have a problem in that much of our beef that is offered for sale at some of our supermarkets has not been aged properly; it has been slaughtered, chilled and aged in transit, and that may be three days. It is winding up for the consumers' consumption when it is just not at its best.

We as producers, and we as government, should be addressing that situation; it has hurt our per capita consumption tremendously. We should be looking at some of our packing houses and providing them with some incentive to age their beef properly. Is there a way of tracking the date of slaughter and the date it has gone to the consumer? I think that is a major problem.

I know I am skipping around, and I apologize for that, but we have a selling problem and we have to make sure we are bringing the product from the farm in its best possible shape or condition for consumer acceptance. When you have a steak and it is like shoe leather you are not going to have steak too often. That, I think, is part of the industry's problem.

I greatly appreciate the fact that OMAF—and there has to be a vacuum there—is at least telling some of our consumers, our newly married ladies and whoever are the people who run the kitchens in the city, and giving them an idea of how to do it. I think that is great.

Dr. Rennie: I might add to Margaret's comments that in the professional staff at the consumer information centre here in Toronto there are two home economists, one agriculturist and one horticulturist as the main force there.

The horticulturist deals to a large extent with the lawn and garden type of inquiry. It is amazing the number of calls we get for the agriculturist too. We think if we do a good job in responding to the questions from urbanites it all helps sell the value of ag and food to society as a whole.

Mr. Ferraro: I have a supplementary to what Mr. Villeneuve was talking about, consumer acceptance. It has been my understanding from what I have heard and read that one of the fastest-growing areas now from the standpoint of meat packing and processing beef is that you kill the cow, you vacuum pack it and it goes directly to the grocery store in a matter of days. My understanding is that it is quite acceptable to the consumer.

Do you have any statistics as to which is in greater demand, that form of commodity or the aged meat; which is in greater demand?

Dr. Rennie: I cannot answer that one, and I do not know if there is anybody here who can. I might add that with regard to the kind of question

Mr. Villeneuve was posing on the matter of beef quality, and it relates to yours too, the beef information centre is our main source of information on that, and our consumer information centre works closely with them.

I do not think there is any question that the type of packaging is going to change considerably. However, as for identifying the cuts as they go through, we are having a lot of difficulty at present. There is a fair bit of work going into it across the country. As a result of our red meat plan there was a lot of interest in electronic identification of animals from time of birth right through to slaughter and marketing, so you could almost identify the animal from birth to plate.

There are studies going on, with the federal Department of Agriculture involved as well, but there is no easy answer yet on that one. To answer your question directly, I do not have an answer to that.

Mr. Villeneuve: Is beef, by and large, not being aged any more? Am I getting that message?

Dr. Rennie: Not to what it used to be, to my knowledge.

Mr. Villeneuve: That is part of the problem, more than likely.

10 p.m.

Mr. G. I. Miller: I have a supplementary to Mr. Villeneuve's question about preparing food: is that part of the curriculum, as far as agriculture is concerned, in our education system?

Dr. Rennie: Do you mean at our colleges?

Mr. G. I. Miller: No, high schools.

Dr. Rennie: You could ask Marjorie MacDonald from our rural organizations and services.

Mr. G. I. Miller: I think that is the basis for education of a lot of our young people: to start at that age and teach them how to prepare good food. They always say the way to a man's heart is through his stomach. I think it is good, particularly for the young people. Do you think that is a good idea?

Dr. Rennie: Marjorie MacDonald is responsible for our major effort in introducing agriculture back into the education system. Miss MacDonald, can you comment on that question, to some extent at least?

Mr. G. I. Miller: On the bit about the way to a man's heart.

Miss MacDonald: The way to mine is harder, or the process is.

The cooking of food is still locked in the family studies section of secondary education

and that, to some extent, depends on the school. It is no longer a mandatory course as schools look at it. Part of the problem is that primarily females take family studies. What we are doing in promoting an awareness of agriculture as general science.

Although the Ministry of Education does not say general science in grade 9 is required, you have to take two credits and you cannot take grade 10 without grade 9; so in the grade 9 section there is a required unit called Energy in Food. We are looking at that unit and doing a section on food production, then looking at processing and distribution.

Within that we are looking at it from a science point of view. How do we process food from a scientific point of view? How do we prepare it at home from a scientific point of view? What happens according to the way you cook it? We are doing it in a science lab, which we hope will reach more students. Guys are going to be cooking.

Mr. Ferraro: Thank God for microwaves.

Mr. G. I. Miller: Is there a role between the ministry and the Ministry of Education so it might be broadened, not only to some schools but also to make sure it is applied to all schools? Cooking is a basic we learn; and I guess we should not segregate the girls from the boys, the guys perhaps should learn a bit of that too. I do not know whether that is possible, but it might play a role as far as the ministry is concerned if more emphasis were being put on agriculture within the educational system.

Miss MacDonald: We are working with the Ministry of Education to develop some of that material. To a large extent they have the final call on where that fits into the education system. I think we are finding more and more that some of the cooking instruction is going to fall into grades 7 and 8, especially under family studies, and we have been working with them in providing general education material. Some of that comes from the commodity boards, and some would come from what used to be our old home economics section, which is now part of rural organizations and services.

However, the final call is still up to the Ministry of Education to some extent, and then largely up to teachers as to how much they use that material. I think we have a role in ensuring it is in the schools and available to teachers, and if it is easy enough for them to use then they will all use it. I think that is the major role we have been trying to play.

Dr. Rennie: Could I ask Miss MacDonald the status of the Energy in Food course that is coming out of the grade 9 science curriculum? It is on a pilot basis this year; is that correct?

Miss MacDonald: It was written by the Ministry of Education staff and sent out for validation by teachers. It then came back and was rewritten. Some schools are doing a first run of it this year; most will do it next year.

We are putting together a package of background information for teachers which ranges from general agriculture in Ontario up to specific experiments and seat work they can do in grade 9. That is going out over the Christmas break; so the teachers will have something to do. We have a group of 20 who will review it over Christmas, and it will go out to all grade 9 teachers in the spring of 1986.

Mr. Stevenson: I have not done the mathematics on this, but the increases in the items in this vote seem relatively small. The farm land improvement one, item 5, is decreased by \$1 million. Is there any reason? Along with that, has the uptake in soil conservation and environment protection improved now that the conservation officers are out there in the field?

Mr. Ramsay: Mr. Chairman, on a point of order: We seem to be sliding down a series of votes now. Are you trying to maintain it to the first couple of numbers? I am just asking for advice here. Should we be clearing up as we go?

Mr. Chairman: We are attempting to stick to the first three items in this vote, Mr. Stevenson.

Mr. Stevenson: Other than that question on the number of dollars I am through questioning down to the fourth item.

Mr. Chairman: Including the fourth.

Mr. Stevenson: Including the fourth, yes.

Hon. Mr. Riddell: The actual expenditures in 1984-85 were low, compared to the estimate, because of less than expected uptake in the area of soil conservation and environmental protection. Do you want to comment, Bert Spencer?

Mr. Spencer: Yes. We had two federal-provincial agreements, one in northern Ontario and one in eastern Ontario. Both were five-year agreements, which have now expired. The cash that flows as a result of the activities under those agreements starts out low, peaks in the middle of the agreement and then drops off. We had both of those agreements dropping off this last year; so that is another reason the total funds voted for the branch have dropped off.

Mr. D. W. Smith: Under farm land improvement, is this—

Mr. Chairman: Wait. Excuse me; we are attempting to get through items 1 to 4 before we move on to item 5.

Mr. D. W. Smith: Oh, I am sorry.

Mr. Chairman: All right. Are there any more comments on items 1 to 4? If not, do items 1 to 4 carry?

Items 1 to 4, inclusive, agreed to.

On item 5, farm land improvement:

Mr. D. W. Smith: Is farm land improvement the area in which to cover erosion problems? I wondered if there was anything in this \$25-million figure for exceptional erosion problems such as those in Lambton, which I talked to you about earlier. Is this where we ask these questions?

Hon. Mr. Riddell: This is where you ask it. You have the experts here to answer it.

Mr. Stevenson: They have had their allocation over the last several years. They surely do not need any more.

Mr. D. W. Smith: I did not think you would want to bring up old history.

Mr. Stevenson: I thought the Ministry of Agriculture and Food was funding only Lambton there.

Mr. D. W. Smith: You always tell us out on the floor that we refer to the old government too often; so I was trying to stay away from that. This is something new.

Mr. Chairman: Mr. Smith, to whom was your question addressed?

Mr. D. W. Smith: Mr. Spencer. I am referring to the problem that was brought up in the bog area in Lambton. I do not know where the problem is in your organization. It has been there for a while. I wondered whether there are funds in this dollar figure for areas such as that.

10:10 p.m.

Mr. Spencer: The funds that are shown, as they relate to the soil erosion program, are funds available under what is known as the Ontario soil conservation and environmental protection assistance program. That program has a number of specified types of projects that are eligible. They are limited in that they only cover certain types of work. In other words, they cover construction, engineering design and some of those types of things. They do not cover crop loss, loss of production if people are unable to use the property for a year, the owner's own labour, the owner's own equipment, some of those things.

Most problems arising with that program relate to some item the current program simply

does not cover. We do not have any discretionary funds which would enable us to look at a problem and say it makes sense and then fund it. We can fund only those things actually listed in the program, which is established by an order in council and approved.

Unless I am missing the specifics you are interested in, that is the problem. It has generally been something that has been lost in terms of an area of land or a crop year, or the potential to produce because an area was totally disturbed, and then returned and obviously does not produce that first year.

Mr. D. W. Smith: That is what happened in the area I am speaking about. It totally changed the topography of the ground. I called it an exceptional case, and that is why I brought it to the ministry.

The waters came out of a river in flood time and went through a knoll on one farm. It carried all the soil off the one farm and put it all on the next guy's farm so he could not farm his. The first chap's land could not be farmed. It is an exceptional case, and that is why I thought it worthy of some compensation.

Mr. Spencer: In that situation, in the neighbourhood of \$5,000 worth of actual work was done, for which we were able to provide a grant. In terms of lost production for the year's crop and probably future loss because of total disturbance of the soils on both of those properties, the projected loss was in the neighbourhood of \$12,000 to \$15,000 that we cannot cover under the program. That is essentially because those things are not listed as eligible items in the program that is established, and we do not have discretionary money. We are unable to assist in those matters.

Mr. D. W. Smith: You were unable to assist them at all?

Mr. Spencer: We were able to assist up to roughly \$5,000 for the one individual, which was for eligible items. That was essentially for the actual movement of the soil, to the extent it made sense. I believe it also included the provision of seed for seeding.

Mr. Chairman: Any other questions under the farm land improvement vote?

Mr. Ramsay: Yes. I presume we are having a vote tonight and the bells are going to ring momentarily.

Mr. Chairman: We should wait for it, though.

Mr. Ramsay: I would like to take a bit of time as I find this section interesting. As the minister

knows, a lot of problems concerning the Drainage Act come to my attention from across the province and my own riding.

A growing network of angry people out there feel unjustly affected by the Drainage Act. It is an important act. It has been a good tool which farmers have used since before the beginning of this century. It is probably one of the oldest acts we have. A lot of work in the past has been done on it.

One of the better studies that has been done was by the select committee on land drainage which submitted its quite extensive report to the House in June 1974 on agricultural land drainage in Ontario. It was chaired at that time by Lorne Henderson. I am sure if he were here today he would say in his language, if I could paraphrase a famous expression of his—

Mr. Chairman: It may be unparliamentary.

Mr. Ramsay: It is parliamentary. He would probably say, "We brung youse this report," as he used to about the cheques from the government down his way.

Not to take away anything from Mr. Henderson, it was a darned good report he helped produce when he was chairman of that committee. Many of those recommendations have yet to be really dealt with. There are quite a few recommendations there that we could be looking at without doing any extensive studies. The work has been done. This study is 11 years old, but even back in 1974 they had the vision to talk about an environmental impact statement on the effect these drains have and to look at a cost-benefit certificate.

These are built into the act now as options. We are getting to the point where we have a farm economy that is poor and we are getting into drainage projects. There is a real question in people's minds, people who are paying quite a bit for their share of this job and see themselves as innocent bystanders, that possibly there is no cost benefit to the jobs.

There has been a lot of controversy, as mentioned, with the federal report, to which the minister takes exception. I would not mind discussing that report itself a little later on. I have seen his open letter to the federal Minister of the Environment. I think he has replied now. I would be interested to find out how that has evolved.

This is an area we could really be looking at. There is room to amend this act. It is basically a good act, but we could make it better and fairer to the people who are affected by it.

We have the bell for the vote. I see Mr. Spencer has brought this equipment here. I do not

know how long a presentation he has, but I would rather have the time when we resume on this vote to be able to enter into a dialogue with Mr. Spencer, to help me understand it a bit and bring to the minister and Mr. Spencer my concerns and some of the ideas I have to help improve the act and maybe derive a bit of understanding of how we can work with the act to help some of these people in the present day.

I will leave it there tonight.

Mr. Chairman: There is a vote in the chamber, where we must all go. We stand adjourned until Tuesday evening at eight o'clock when we will commence at vote 2103.

The committee adjourned at 10:18 p.m.

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 Miller, G. I. (Haldimand-Norfolk L)
 Ramsay, D., Vice-Chairman (Timiskaming NDP)
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 Smith, D. W. (Lambton L)
 Stevenson, K. R. (Durham-York PC)
 Villeneuve, N. (Stormont, Dundas and Glengarry PC)

From the Ministry of Agriculture and Food:

Ashman, Dr. J., Program Manager, Incentives and Performance Testing, Red Meat Administration Centre
 Boyd, K. G., Project Co-ordinator, Agricultural Engineering Services
 Caine, R., Policy Adviser, Economics and Policy Co-ordination
 Fleming, P., Manager, Rural Organization, Rural Organizations and Services Branch
 Frank, Dr. R., Director, Agricultural Laboratory Services (Pesticide Laboratory)
 Hoag, N. W., Director, Agricultural Representatives Branch
 MacDonald, M., Education Specialist, Rural Organizations and Services Branch
 Rennie, Dr. J. C., Assistant Deputy Minister, Technology and Field Services
 Spencer, V. I. D., Director, Soil and Water Management Branch
 Switzer, Dr. C. M., Deputy Minister
 Taylor, D. W., Principal, Ridgeway College of Agricultural Technology
 Toivonen, M., Comptroller, Agricultural Research Institute of Ontario

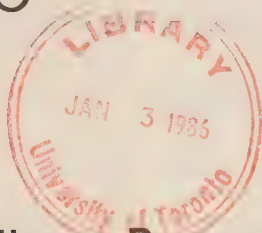


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Hansard

Official Report of Debates

Legislative Assembly of Ontario



Standing Committee on Resources Development

Estimates, Ministry of Agriculture and Food

First Session, 33rd Parliament

Wednesday, November 27, 1985

Speaker: Honourable H. A. Edighoffer

Clerk of the House: R. G. Lewis, QC

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Rowe, W. E. (Simcoe Centre PC)

Smith, D. W. (Lambton L)

South, L. (Frontenac-Addington L)

Stevenson, K. R. (Durham-York PC)

Also taking part:

Riddell, Hon. J. K., Minister of Agriculture and Food (Huron-Middlesex L)

Taylor, J. A. (Prince Edward-Lennox PC)

Clerk: Arnott, D.

From the Ministry of Agriculture and Food:

Collin, Dr. G. H., Assistant Deputy Minister, Marketing and Standards

Rennie, Dr. J. C., Assistant Deputy Minister, Technology and Field Services

Spencer, V. I. D., Director, Soil and Water Management Branch

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, November 27, 1985

The committee met at 10:15 a.m. in room 228.

ESTIMATES, MINISTRY OF AGRICULTURE AND FOOD (continued)

On vote 2103, agricultural technology, development and field services program; item 5, farm land improvement:

Mr. Chairman: The standing committee on resources development will proceed at its normal breakneck speed. I understand the minister is at cabinet and is expected in a few moments. The opposition critics have agreed we should go ahead. There are almost seven hours left in the estimates, which means we will sit next Tuesday evening and Wednesday morning. That should complete the estimates of the Ministry of Agriculture and Food.

We are on vote 2103, and when we adjourned a week ago, we were on the item dealing with farm land improvement. Mr. Ramsay, I believe you were in the middle of your remarks when the bells rang. Please proceed.

Mr. Ramsay: We were beginning to talk about farm land improvement and specifically about the Drainage Act. I would like to take this opportunity to make some comments and then have a little dialogue with Mr. Spencer concerning the act. I have a few recommendations I would like to put forward; it would probably help me to discuss them, because I find the act to be an extremely complicated document.

My interest in the act has come about because of the conflict it seems to cause in the rural community, whether in my own riding or across the province. It is unfortunate, because it is a good document, but there are flaws in it that give people in the rural community the perception that it is very undemocratic. I have never run into any piece of legislation in the province that makes people feel that democracy is not really working on their behalf. Because of that and because of the people's anger, it leaves a bad taste in my mouth.

As Mr. Spencer knows, there are vigilantes of a sort around the province who have been wounded by this and who have a grudge against the act; they are determined to get changes made and, in some cases, perhaps to get rid of the whole thing. We need the Drainage Act—it is

basically a good act—but we need to make some improvements.

In general, the problem with the act is the involvement with the engineer. I suppose the reason we get involved with the act is the grant that is attached to it. There is a one-third grant in southern Ontario and a two-thirds grant in northern Ontario. People who alone, or perhaps with a neighbour, decide a ditch is necessary to make an outlet for water, instead of digging a half-mile ditch—with a good backhoe operator, depending on conditions, you could do that for \$600—decide to go for the grant and petition the township.

This brings me to one of my points. Mutual agreement drains possibly should be considered for the grant. If that were the case we would not get into so many petition drains, because as I said before, the reason people get into these petition drains is to get the grant. Many times, when we get into that situation, we get into a real can of worms involving many people who are innocent bystanders, if you will. They are minding their own business; they may live in a town and have a little piece of property when all of a sudden, wham; they are hit with this assessment and they do not really know what hit them.

Because of the way the act is written, the perception is that the engineer tends to manipulate what is referred to in the act in subsection 4(1) as the area requiring drainage. We run into a lot of problems with that subsection. We get into trouble because if we have to have 60 per cent of the land owned by the petitioners to qualify as a proper petition, at that point the engineer may be tempted to manipulate the area requiring drainage, either to make a valid petition or to make money for himself.

10:20 a.m.

I know the expression was used many years ago with regard to broadcasting, but I find the Drainage Act has become a licence to print money for engineers in Ontario. That makes people angry because the people are paying for it. The government pays for it too and therefore we all pay for it. In northern Ontario, where there is a two-thirds grant, it becomes very expensive.

I feel municipalities and the petitioners lose control and the engineer tends to be the king in this situation. It becomes his baby once the

petitioners have signed; it seems to be out of their hands. It is almost like a piece of legislation designed for entrapment, once you sign it and get a preliminary report. People often do not realize it is going to cost as much as it does, and the cost of the preliminary report is so great that many feel trapped. They can get out of it and they can get the grants, but the engineering bill may be so high—I have seen some preliminary reports that are \$15,000—that the people feel they have to go ahead with it.

They did not know that it was going to cause all this trouble with their neighbours or that they were all going to be brought into it. It was just himself and his neighbour, and the township signed because it was going to get a little benefit. However, all of a sudden, there are six or seven or eight more people involved; and whereas they were good friends now they are getting angry, because as innocent bystanders they are being assessed.

The engineer seems to have control and suddenly the people who started this thing, for whom the whole act was designed, no longer have any say in it, even though there are appeal mechanisms. It is troublesome. I find the court of revision does not have the power the act intends because of the possible ignorance of the powers of the court of revision on the part of the people on the township council. In many cases it is the township council that is the court of revision, and in some cases you get conflict of interest.

I will mention one case that is in process in my township, Casey township; it is called the Connelly drain. The two townships involved, Harley and Casey, are signatories to the petition, and the court of revision consisted of a couple of representatives from both townships. It seems to me there is a conflict of interest there. In addition, one of the township road superintendents who signed is a relative of the main petitioner for the drain. When you get that sort of situation, there seems to be a real conflict of interest.

In the Municipal Act, conflict of interest is very well delineated and quite strictly enforced, and people are very aware of it. However, that does not seem to be the case with the Drainage Act. That is why I think the councils and the court of revision do not realize the power they have to change assessments. I know when I was a municipal clerk we basically deferred to the engineer: "Mr. So and So, what do you think about this?" "Well, the drainage pattern shows this land is in here. I think we had better keep Mr.

Smith in; we had better assess him," whether it is outlet assessment or benefit assessment.

I do not have all the answers, but we could go through many points. I would like to touch upon five of them that I think we could discuss. I am not sure what we will do after that, although we have arranged a meeting with the minister and Mr. Spencer, and I am looking forward to that. Through discussions, perhaps the government in its goodwill will propose some amendments to the act to satisfy some of these concerns.

It is the area requiring drainage that presents the problem. I notice the select committee on drainage in 1974 recommended a change to section 3 under requisition drains, and I would like to see the same change made under section 4 for petition drains. The phrase "area requiring drainage" should be replaced with "area to be benefited as determined by the engineer." That, as I said, was a recommendation of the select committee on drainage in 1974.

Where we get in trouble here is that it is the engineer's duty to find an ample outlet for that drainage area. Sometimes he has to go miles downstream to find that outlet. Now we are going by Mr. Smith's and Mr. Jones's property and the engineer sees there is some benefit to that property; they get a benefit assessment for that. In the engineer's wisdom, if there is enough water coming off that land to qualify as a benefit, there may be an outlet assessment applied to that property also.

Because of the way the act is written, we get more people involved and the initial reason for it—to satisfy the drainage demands of a couple of people who want a ditch—gets distorted. They are all in agreement and want to get their grant, have it engineered and do a proper job of it, which is just perfect. However, we get this animosity in a rural community; fighting, neighbour against neighbour. It is a shame; we have to work on that. That one area would be something to work on, and I am not sure that it is best to use that term "area to benefit."

I do not know what the answer is. How can we make it so that a few people decide a ditch is needed and an engineer says it is valid? Why can we not say that is the drainage area, give them the grant, build the ditch and be done with it? We have to address that.

My second recommendation is in regard to the environment. We have many groups saying we should have an environmental impact study done on every drain. That may be a very noble goal, but it may also be very impractical and expensive. What we could do in the legislation, as we

have done in many other construction projects, is establish a class environmental assessment. It is something that could be done inexpensively.

There are certain standards a drain would have to live up to. If we had a class environmental assessment done automatically in the preliminary report of the engineer, it would not be a costly addition to the procedure. Some of the environmental concerns would be addressed, and we might not have as much controversy over some of these drains as we do now.

It would be nice to have an individualized assessment done, but politically and fiscally that is a bit much to be asking. Perhaps a class environmental assessment is the way to go.

My other point regarding the cost-benefit statement is especially important and has come to light because of the depressed farm economy. When land was escalating in price and things were moving on the farm, we never looked at the benefit of a drain. It would just appear. There is a piece of land to be tiled, it needs drainage. Putting in a municipal drain would give the outlet. We did not sharpen our pencil the way we have to now to find out the benefit in dollars and cents to me and my neighbours.

Many drains went in, and when the farm economy was such that we had good prices, possibly there was a benefit. Now we have some farmers deciding they want to drain a piece of land, but down the road there may be some land for sale, as a lot of farms are today, that is a lot cheaper and already drained. It could even be marginal land. I refer again to this Connelly drain; it is basically a wonderful field of black muck, but it is going to grow some good grain when it is drained. If he does it right and gets it drained well, he could get 100 bushels of barley to the acre; but there is good clay loam, tiled, just down the road that can be picked up at \$300 an acre because land prices have fallen by 50 per cent.

As taxpayers of the province and the people directly involved in that drain, do we have to subsidize this project when many of the people who are being assessed do not see it as being a cost benefit to anybody, let alone the land owner himself? It is his private project, and he happens to work for the Ontario Ministry of Agriculture and Food. He is a government worker and is not even what would be classed as a full-time farmer, but his project is causing a lot of grief.

The cost-benefit statement automatically coming out of the preliminary engineer's report would also satisfy a lot of the demands people have; they would feel a lot better about the

project and proceeding with it. In that cost-benefit statement, all the reasoning, calculations and data on volume and flow should be set out for the court of revision and subsequent appeal bodies to look at.

10:30 a.m.

Also, if we are going into the points of the mutual agreement drains, let us look to see whether we could apply a grant to those to facilitate less use of petition drains. It might be a way of getting away from some of this controversy. As I have said before, I feel a lot of people go to the petition drain to secure the grant.

Also, for environmental concerns, I would suggest the Ministry of the Environment and the Ministry of Natural Resources should have veto power over a municipal drain—it sounds a little bit draconian—if they felt in their wisdom the project was environmentally unsound.

We are looking at land today in a new light. We have always decided to conquer nature and not live with it. If it is wet, let us drain the sucker. That was the mentality: drain and let us farm it. We are starting to say that we need some of our wetlands out there. Heaven knows, we do not need any more farm land developed in this province at this time.

This goes off the topic in a sense, but maybe some of the tax structure, such as rebates and the farm tax reduction program, and some of the grant programs could encourage the farmer to set aside wetlands instead of always trying to drain everything he has.

The farmer today is a little more concerned and aware. He sees the economic prospect is not there to always be developing, clearing and draining the way we were led to do by the ministry, especially in the north. The banks, and we as farmers were equally to blame; but also I think we were encouraged through the grant programs to drain and clear. A lot of us who did that in the north in the late 1970s and early 1980s now find ourselves in a real jackpot because the markets are not there any more. We never looked at the other end of it.

The Ministry of Natural Resources and the Ministry of Energy should have a say in this, and possibly even veto power. We have to look at the land resource in its totality, not just the capability of what it could grow. There are uses for land in this province other than farming.

I would like to make those recommendations and to turn the floor over to Mr. Spencer to see if he has comments on any of them, if he thinks any of them are unrealistic or perhaps on the right

track. Obviously, you get the brunt of these things; you get calls from people who are angry.

Mr. Spencer: I would make a few comments. One of the things that often creates difficulty is the fact that the Drainage Act attempts to honour common law which has evolved over several centuries in Britain and which has been carried forward here in Canada. That creates two types of financial liability and it creates two types of assessment that very often are poorly understood; and perhaps in today's society are not as reasonable as they may have been a while ago, because they have not been altered and modified in the normal common law process since we have had statute law.

The common law aspect really relates to what happens to every drop of water that lands on people's land. It makes some very finite, hair-splitting decisions about the obligations of people relative to that water as it drains into the ground and away from their property. It creates this outlet liability. The man on the ridge says: "My water flows off my place and is long gone. Why am I paying for this drain?" He is paying for the drain because the common law doctrine says that the man has altered the face of his property, has altered the vegetation and has thereby altered the flow, either the rate or the quantity or both. As a result, he has to pay for the outlet for that extra water.

These things are developed into rules of thumb after a while and sometimes even the engineer has great difficulty explaining to the land owner why he is paying a certain percentage; 30 per cent of the costs are being charged to outlet and 60 per cent to benefit or something like that. He almost gets lost in the rules of thumb and the practice of the day. The land owner who acknowledges that his water eventually flows a kilometre away still cannot understand why he is paying.

All the issues about an area requiring drainage versus the rest of the watershed, the arguments about the course of the revisions, how much should be charged to benefit, how much to outlet and how much to each of the individuals, relate to the underlying premise of the act that we preserve riparian rights and other common law doctrines.

Quite frankly, the answer may lie either in abandoning or modifying how much of those we carry forward; or doing a massive education job so people understand and accept that they have these obligations.

In areas of the southwest where the farmers are in the third generation of enduring the Drainage Act and the common law concepts that go with it, it is accepted they will take it to court and appeal

on fine points, but generally speaking they accept the principles. The principles perhaps make more sense because every property is worked and farmed and they are all actively used.

One also runs into difficulties with a lot of these common law doctrines in what we call areas of mixed use, whether we are talking about those close to the Canadian Shield or in northern Ontario, where there are a few properties actively being farmed and a lot of properties being left in their natural state. People say, "Maybe it is the law," but it does not make much sense to them. They say, "All I have ever had is a few cattle in here," or maybe: "I have had nothing in here for the last 25 years. How can you say I have altered the surface? Why do I have an outlet liability?"

10:40 a.m.

We find many of the things that are zeroed in on are symptoms rather than the actual root cause, which may be trying to preserve the common law concept of the outlet liability. We have added some benefit to that. We have said, "If you are doing this drainage for the benefit of six or eight owners they should bear the brunt of the cost, and a relatively small amount of the cost should be assessed to cover this outlet liability."

If there is no clear beneficiary, if we are not deepening it to allow some individual to tile it or so that a man gets surface drainage and can clear the land, but instead improving the entire outlet to avoid flooding or whatever, then it may be that most of the cost should be charged to outlet and not so much to benefit.

I guess it is that rather nebulous outlet, common law liability, that is very hard for a lot of people to understand. Quite frankly, a lot of people say it is crazy. They say it is undemocratic because it is assumed under the act that it is a legal liability. It is an obligation, and you do not count for or against a petition because you do not have any option. You have to pay if it arises.

Mr. Ramsay: How could we move in that direction in the act, charging more to benefit than to outlet? That would alleviate part of this problem.

Mr. Spencer: There are a great number of ways it could be accomplished. We would certainly have to have an awful lot of debate and we would have to look at an awful lot of circumstances and how they would be affected. I think of some of the very major schemes in southwestern Ontario, where there are 100 years of history in terms of precisely how the costs are divided. If you were suddenly to propose a change of legislation that was going to reduce the amount of obligation relative to outlet and

increase the amount of obligation relative to benefit, there would be a tremendous hue and cry from a number of people down there because we would be upsetting the entire relationship. You would need to do that very carefully.

Another comment I would make is that the engineer, as you point out, is given a lot of authority. Even engineers have made mistakes in judgement or in anything else with respect to what might have been more acceptable in the community. Perhaps in some instances they have put more costs on the outlet and less on the benefit than was reasonable.

With that background, I might just mention the five points about which I hope we will have an opportunity to have an extensive debate with you and some of your colleagues. I think we can get into some of this in more detail. As I say, the area to be benefited raises problems because the people outside that area in the area requiring drainage do not count for or against the petition. It is always subject to the charge they manipulated it. They moved it because they wanted to include somebody who was in favour or exclude somebody who was opposed. That whole problem relates to this common law issue.

The environmental assessment, the decision at the time the legislation was changed the last time, was to call for an environmental appraisal, which was optional. The judgement of the decision-makers at the time was that there were sufficient situations that were fairly straightforward and reasonable in what one might call settled Ontario that it seemed unrealistic to call for a full appraisal in those situations.

Often an environmental issue is a very specific one. It is a fish habitat or it is a particular wetland for wild fowl. It is something specific. Even in those that required an appraisal, rather than requiring it across the board to deal with all the possible environmental issues, the appraisal could zero in on the fish habitats, if that was the issue, or on a stand of timber or on wild fowl or whatever.

The cost should be covered by the individual or the agency calling for the appraisal. The thought was that environmental appraisals were in vogue at the time and would be called for routinely if not assessed to those calling for them.

I have to agree that section of the legislation has not worked very well. The people who should have been responsible and called for environmental appraisals—and it could have been the council in a lot of cases or sometimes it should have been the conservation authority—did not want to be seen as adding this additional cost.

They took what may have been the easy route and said: "We will not call for it. We will let it slide." Then some environmental aspect became an issue, but it was after the fact and very difficult to go back at that point.

Probably some other system of cost sharing would have helped or could still help that segment work better, because the issue became one of: "Do we add additional cost to the thing? Who is going to pay for it?"

Mr. Ramsay: The idea would be to do a class environmental assessment on it first, which would obviously be a lot less detailed as a preliminary look and the cost would not be so great. Basically, all the criteria would have been worked out ahead of time.

Mr. Spencer: The class environmental assessment is another way of approaching it. A class environmental assessment normally insists that you deal with each of the facets, even if you deal with them fairly superficially. The appraisal did have the advantage of being able to zero in on the particular point of issue. Maybe we are splitting hairs on that.

Mr. Chairman: Mr. Ramsay, there are a couple of supplementary questions over here.

Mr. Ramsay: Sure. It is probably better to address the points as they come up.

Mr. South: I want to compliment Mr. Ramsay on what he has been saying here. It is one of the most enlightened expressions of what this whole thing is about. The idea of making more limited agricultural land available when one of the biggest problems facing us is getting rid of surplus agricultural products, does not make sense.

The idea of a cost-benefit study on any of these drain proposals is very important and should be an absolute necessity. If we start with the premise that we have, by and large, a surplus of agricultural products in this country right now and for the foreseeable future, the Ministry of the Environment and the Ministry of Natural Resources should have veto power over any of these drain proposals.

I could not agree more with what Mr. Ramsay is saying. The Ministry of Agriculture and Food should recognize these points. There often seems to be a knee-jerk reaction on the part of agriculture and farmers when one starts to impinge upon what they have always considered their traditional rights. They do not want any part of it.

In today's climate, considering this great surplus of agricultural products, there is a need to

take a slightly different philosophical approach to the whole farm community.

10:50 a.m.

Mr. D. W. Smith: I may agree with some of my colleagues and I may disagree, even with my own caucus member. Generally, there is a difference throughout Ontario. Mr. Ramsay, being a member from Timiskaming, is possibly going to think a little differently than I would coming from Lambton. As Mr. Spencer has said, some of these municipal drains have been in existence in Lambton since the early 1900s and were based on assessment over the entire drainage area.

I would hate to think we would leave these meetings trying to throw out the entire Drainage Act, when people have accepted it for that number of years. In an area such as southwestern Ontario where there is intensive farming, everybody has to help pay for the drain. When you start saying you are going to work only in a specific area within the drainage watershed, you can get yourself into more problems in the long run.

We have a number of drains, and I will give you an example of one in particular near my own area, some of it drains through my own property. Over the years people upstream have improved their lands; they tile it. They may go in and do portions of a drain that is not always under bylaw. Some parts of the drainage area are under bylaw; others are not. They straighten the drain and they dig it deeper. They get an increasing flow of water coming down through their lands. However, it hits the lower property that much more quickly and creates a problem from that point on. Over time there is a chain reaction.

I became part of the group whose land was being flooded. Every time there was a big rain the waters hit us so hard—we are very close to the lake—we could not depend on anything. We did force through—actually it was done by a majority of petitioners—a petition to get the drain cleaned out. It cost people upstream quite a few dollars. They would be five miles from the work and would wonder why they had to pay for it. When they clean out their drains they create a problem for the people downstream. As their water moves through the system they have to pay.

If we are going to change the act, maybe some of it should be written up a little differently for northern Ontario, but leave southwestern Ontario more or less the same. I am not saying the act cannot be improved, but I would not want to see it just thrown out without a lot of thought.

The other point was on why farmers have tried to improve wetlands. Over the years, as they

tried to keep their net returns up to those of their city cousins, they were more or less forced into a multiplier effect. They buy a new tractor. The new tractor will do a little more work so then they get a little more land. It becomes a snowballing thing.

The only reason the farmers are into overproduction right now is that over time they have tried to improve their lot to compare favourably with their city cousins. We are possibly all at fault. Some people do not understand the economic system and the way it has been expected to work in our society; where one has to generate enough dollars from the raw material source to work up through the system to give one the multiplier effect.

If the farming community was given more for its commodities farmers would not be trying to put these wetlands into production. We need them and we need woodlots. That is a contentious issue down in Lambton, seven or eight per cent of which area is covered by woodlots. If we are going to change things in this area the people who benefit, and that is all of us, are going to have to help to pay for it.

If you want to retain wetlands and woodlots there should be an incentive—I do not care what the figure is; give the farmer \$25 or \$30 an acre a year—so that the farmer does not have to bring that land into production. He is being compensated in some way. Whether it is as good as he thinks is warranted is another point of view.

The farmer has carried the load for quite a while; and he has been forced into these situations in lots of cases, especially in our area because land is much higher than it is in northern Ontario and even the northern part of southwestern Ontario. I am not going to sit here and let the farmer be responsible for all the problems. Society as a whole has to play a part in this.

I would not want you to throw out the Drainage Act holus-bolus. We have become accustomed to it. Yes, we argue with our neighbours, but we argue with our neighbours about a lot of things. Yes, I disagree with the engineers from time to time, but that is part of the system. I do not want to see you throw it out overnight without a lot of discussion on it.

Mr. McGuigan: I am very pleased to take part in this discussion because it fits in with my line of thinking. Before I question Mr. Spencer, I would like to take you back a little bit to the fact that this act had its genesis in southwestern Ontario, in Kent county where I once lived. I lived in Raleigh for quite a while and then moved across the road to Harwich.

The act had its beginning there in the middle of the 1850s. The farmers close to the banks of the Thames River—Mr. Riddell has heard me tell this story before—went to the council and said, “The people up on the higher land”—they were the people by the lake—“are starting to develop their land and they are draining the water down on us.” The council said, “It is none of our business.”

There was a man who was persistent and he eventually took the question to England. Canada did not have a Supreme Court at the time. They made the judgement that one neighbour could not pour water down on another neighbour. It was not a matter of common law, although the decision was based upon the common law in Britain in regard to riparian rights, but it was a matter of statute law in the middle of the last century that you could not pour your water down on somebody. This whole business of assessing the costs and benefits flows from that.

The law was made for southwestern Ontario. It was made for land with very little slope, land without drainage in an old lake bed, such as Kent, Essex and Lambton counties have. People could not have lived there in great numbers unless that land was drained.

If you go back into the story about the Baldoon settlement at Wallaceburg, many of the early settlers died from malaria. You might think it strange there were people who died from malaria in Canada, but they did because it was a malarial swamp. After draining that land they were able to turn it into a great garden.

11 a.m.

Today, in many of those places—and I can think of two marshes along Lake Erie very close to where I live; as a matter of fact my family was very instrumental in draining and developing that marshland—if you were faced with the question of whether to drain the marshes along Lake St. Clair and you did an environmental assessment there is absolutely no way you would drain those lands.

When the Erieau marsh was first drained my grandfather bought 300 acres of it. My dad had one of the first tractors around, one of the single-furrow-breaking ploughs. He broke up 300 acres of the land and farmed it for a few years and then sold it to other people. There were about 1,200 to 1,800 acres of marshland there in which they grew vegetables. There is less than 200 acres left today because the marsh oxidized; it blew away and so on. That is only over a matter of 60 or 70 years.

We are faced with a high lake level. To protect that little bit of marshland we have an estimate of

\$17 million before the Ministry of Natural Resources for just two miles of breakwater to protect about 200 acres. Just take a look at all the changes it has made in Rondeau Bay, which is a great fishing area, with great economic potential for tourism.

Today, it would be turned down on an environmental assessment. Yet when those people were doing that work it was the thing to do. Here was an absolute jewel of a resource. They needed that kind of land for growing vegetables. They made an economic unit of it. A lot of people in the nearby towns let them work there. They exported onions and carrots overseas and they supplied the canning factories locally. It was a great deal for many years.

It was the same thing over in the Dover marshes. Last year about 10,000 acres of the Dover marshes were flooded. They are lands below lake level and have to be pumped out for the normal drainage. I remember when the Thames River blocked up. It is almost becoming an annual event, the blocking with ice and the waters filling up the Dover marshes. The cost of simply pumping off that water was \$100 an acre. That is only fuel costs because the government provided the pumps; the township had to provide the manpower, electricity and fuel to pump off the water.

It was \$100 an acre beyond very high taxes for the normal drainage. If you start looking at the hundreds of millions of dollars that would be required today to alleviate that drainage situation, an environmental assessment would say not to go through with this project.

What all of us are saying is that the Drainage Act was made for the southwest, and it was a tremendous step forward. It has been responsible for developing billions of dollars worth of assets over the years, in farm-land values and in the products produced by it. We can look back now and see where there were some mistakes, and we seem to be repeating these mistakes in eastern and northern Ontario.

I made this pitch to the previous government. Perhaps we are at a time when we should be reviewing this whole matter and asking, “Should we be doing the same things in eastern Ontario and northern Ontario that we were in the south?” I repeat that the whole system was developed for the south and for an entirely different set of circumstances.

Mr. Taylor: I have a point of clarification. When you bring in eastern Ontario, I become very attentive. I do not want to see the mistakes of southwestern Ontario projected into eastern

Ontario in the drainage area. Eastern Ontario has been late, in relative terms, in getting involved in tile drainage. You are tiling for the second time; we are tiling for the first time.

Mr. McGuigan: Some for the third time.

Mr. Taylor: In your area, yes. What are the mistakes you are afraid might be transferred to eastern Ontario?

Mr. McGuigan: We need to pay more attention to environmental assessment and we need to pay more attention to cost benefit. I am certainly not in a position to speak for eastern Ontario. When they have a study or a reassessment done, the people of eastern Ontario can speak up and pick out whatever they want to retain of the Drainage Act. They can put red flags on whatever changes they want made.

A person from southern Ontario is not going to suggest other places cannot have drainage. I do suggest we went at it with a meat axe, and probably a meat axe was required. With the knowledge gained in the meantime we can be more sensitive today. We saw some errors made and we did gain some knowledge.

Mr. Taylor: Are you saying it may be an uneconomic use of land to expend the kind of money necessary to put in drainage and bring it into production?

Mr. McGuigan: That is quite possible. I have seen errors. For example, my brother forced a drain because of a runoff in flash storms. A runoff cut a ditch through his farm. He forced a drain. He put a big underground tile about a mile down to the lake, and this tile cost \$50,000. A grass waterway, that might take 30 or 40 feet out of a mile width, would have done pretty much the same thing.

Even though he has something like a 14-inch tile underground, it does not stop all the flash water that comes in the spring rain. That two or three acres of land that was saved cost one heck of a lot of money. The neighbours are a little sore, but because they are good neighbours, they went along with it and did not put up a lot of fuss. Their families have married into one another and they are good neighbours. Nevertheless, you have to ask whether that cost was beneficial?

Mr. D. W. Smith: Is there a supplementary there?

Mr. McGuigan: Just let me finish. I am saying the Drainage Act should be looked at, and I think we could very well do that.

Mr. Chairman: Do you have a short supplementary?

Mr. D. W. Smith: Yes, that is why I say it is possible these wetlands and woodlot areas would not be bulldozed off or drained if we had a compensation package for these lands. It seems that everybody in Ontario, through the tax dollar, is paying for the tile drainage anyway.

If you do not want these lands drained, then compensate the farmers in the first place. We would not have as much runoff, there would be a little more tree cover to help purify the air and some of the waters in the wetlands would percolate down through the soil bed. You might as well give the money to the farmer in the first place and not let him destroy those areas. I think it might be the best thing in the long run.

Mr. Ramsay: Thank you, Mr. Smith. I apologize if you may have misinterpreted what I have said, because I—

Mr. D. W. Smith: No apologies.

11:10 a.m.

Mr. Ramsay: No, I know, but I did not want to throw out the Drainage Act. I felt we could maybe fine-tune it a bit. I am getting at flexibility here, because as Mr. McGuigan said it was basically an act designed for southwestern Ontario. As the province develops agriculturally, and agricultural development has moved to eastern Ontario and now to northern Ontario, I am looking at flexibility to deal with all the different individual situations in the province. That is all I was getting at.

Mr. Spencer: There were three additional points, and I will try to be brief in speaking to them.

The first was the cost-benefit statement. Like the environmental appraisal, we made this optional. The concept at that time was that there are areas where it is evident there are many projects that involve the maintenance of existing systems. It did not seem reasonable to make it mandatory. Exactly the same thing has happened there.

The people who should have shown concern and should have decided that a cost-benefit statement was needed on a particular situation have been very reluctant to do so, because they knew additional costs would be added to the project. We were trying to make the act flexible, so where it was fairly well accepted and fairly straightforward, and perhaps did not involve new work to any extent, we would move through without the two items. When we reached areas where there were either environmental questions or cost-benefit questions, those statements could be called for.

We always have to remember, too, that whether or not those statements are in place, those issues can still be the subject of an appeal. The problem is that nobody has at his fingertips the detail of information and the kind of information needed to intelligently debate or launch an appeal. That is why it is a misfortune, if there is an environmental question or a cost-benefit question and the study has not been called for initially, you end up trying to deal with it in appeal; and you do not have the information, nobody has the information that is needed.

Perhaps there could be some loop that would force it back through that kind of study. Clearly, there have been situations that, without question, are cost-beneficial to some land owners but not to the remainder.

That is where the engineers also have an obligation. They are supposed to make a determination and to satisfy themselves before they go forward. Perhaps it is asking too much of a professional group to determine that, while some of the ratepayers want it and the municipalities appointed them, the project should not go forward because it is not cost-beneficial. That may be too large an obligation to lay on even a professional, who should in fact accept it.

With respect to grants on municipal agreement drains, the main point at issue is why we give grants at all. As I understand it, the underlying concept of giving grants under the Drainage Act was because an engineered solution was required.

It essentially required a comprehensive solution. It was supposed to have proper standards from an engineering point of view. It was to cover the legal issues of whose water it was and to get to a point where it was not going to cause damage or injury. It provided for maintenance. It was hoped it would avoid some of the lawsuits we were getting into with people undertaking projects without legal authority. Because of all those supposed advantages of the Drainage Act, and to encourage people to use it, a grant was provided. That grant started as a one-third grant.

The mutual agreement drain does not cover most of those areas. With the mutual agreement drain, the specifications are normally what the people think they need. There are no particular standards we might apply to protect the environment or try to reduce maintenance costs. Maintenance can be covered, but it is a tenuous area. One has to go to court to enforce it if one runs into trouble. Mutual agreement drains can still lead you to lawsuits because you may not

have taken the water to an area that avoided downstream damage.

The concept is to provide grants to the one that solves those problems and not to provide it to the other. The other was easy and simple. In fact, two, three or perhaps even four land owners could go ahead and do something obvious and it would not cost them much. They would not create many problems by it, but they would not get a grant.

There has been some discussion of finding a place in between where we do cover a number of those areas and provide some grants. It is certainly part of the debate, and there is debate going on. That is a possibility.

The one thing that veto power would accomplish is that we would get into a mass of educational programs in a hurry because we would be trying to convince anyone who is opposing us of the merits of drainage, where there are merits.

I would like to make two other comments. One relates to the general impression that we are clearing and developing a great deal of new land. It is worth while commenting on that. On a provincial basis, we are not doing much in relation to new land or new projects. There are new projects in northern Ontario and in eastern Ontario. Most of the activity is occurring in the maintenance and upgrading of long-standing and existing land which has been farmed for many years.

The bulk of our problems may be related to relatively new areas. The bulk of our activities and the funds are not going to clear or make available new lands. We are trying to ensure that drainage is not a limitation in a farming operation and that maximum efficiency is being achieved from the land being farmed.

Mr. Ramsay: I thought that was constructive dialogue. I am sure it will continue. Perhaps there is a possibility of co-operation with the ministry and the minister so that in the next few years we could work out some fine-tuning to the act to make it more responsible and flexible to all the people of the province.

It is interesting to note that two members of the committee this morning used the expression "forced a drain." One feels like saying "touché" concerning the evidence of how it can be undemocratic. It was nice to see that I am not the only one—

Mr. D. W. Smith: I had a two-thirds majority.

Mr. Ramsay: That is true.

Mr. D. W. Smith: That is common language in our part of the country; you force a drain.

Mr. Ramsay: I know. It has become part of the culture.

We might approach an appeal procedure in this way. If 50 per cent of the farm land owners, who are now designated by the engineer to be in the area requiring drainage, petition against the drain, we would be able to force a tribunal hearing at that time. People would feel democracy was working. We get into the point that 60 per cent of the land, but I am speaking of 50 per cent of land owners. This is where we get into difficulty.

11:20 a.m.

You could have one person, as you know, initiate—I say “initiate,” not “force”—a drain through petition. That one owner could easily own 60 per cent of the land in the area requiring drainage. You may get a lot of people brought into it, and you get that one person forcing—now we use the word—the drain on a lot of other people. I am not indicating that cannot go through, but we could have a tribunal hearing then and there if there were that controversy, if we had 50 per cent or more of the land owners saying they were not interested and would like to have it appealed. I would ask Mr. Spencer for his thoughts.

Mr. Spencer: That is worth investigating. My only comment is that you might still want to have something that related to the percentage of the area owned. You could encounter a situation where, for example, three owners owned 90 per cent or 95 per cent of the land, and six or seven estate residential or smallholdings with relatively small assessments were opposed, adding considerable cost. So there might still need to be some type of thing. That is one of the problems, of course, with any rule of thumb. Those close to the actual criteria lines do not look as though they are being treated fairly.

Mr. Ramsay: There are two matters I would raise in response. As times have changed, as we have noted through our environmental awareness, minority rights in such a situation could also be looked at. If that provision were there, it might help prevent a situation from occurring, and there possibly would not be the determination by the engineer to enlarge that area. If he saw the problem coming up and the possibility of an immediate appeal, it would restrict the area to the proposed people a little more and to those who do require and need it and would benefit from it. It

may be a mechanism to prevent troubles down the road.

Mr. D. W. Smith: I would ask Mr. Ramsay for clarification on the point he was making. Are you asking or suggesting that the drainage tribunal hear a case before it goes to the court of revision or before it gets very far into the engineer's hands? Normally the drainage tribunal is not asked to comment or make a judgement call on a drain until after it goes through the court of revision.

Do you want to move the drainage tribunal's authority further ahead in the scheme? Is this what you are trying to indicate?

Mr. Ramsay: Yes, but only in the case when 50 per cent or more of the land owners petition against the drain immediately upon presentation of the preliminary report. This has nothing to do with percentage of property owned. It would not be an official petition, but owners would show up at the meeting, whether they wished to sign a paper or not, and if 50 per cent of the owners stood in opposition, we would provide a mechanism to bring the tribunal in to look only at that situation.

Mr. D. W. Smith: But sometimes that is too early. As reeve in my municipality, I have sat on a very contentious drain issue—I forget what it cost, it was something like \$100,000. They can be brought in too early.

I have nothing against petitions, but quite often you will get perhaps two or three individuals going through a community or an area saying, “Will you sign that you are opposed to this?” or “Are you in favour of this?” Some people do not know any of the details, they only listen to what they want to hear at the time, so they do not really have any concrete information to go on.

Mr. Ramsay: But this would be after the preliminary report and the meeting of the engineer.

Mr. D. W. Smith: You would let the preliminary report go through, then?

Mr. Ramsay: Yes, we have to know what the drain is, what it is going to cost and what the assessments are. That would be the justification for the—

Mr. D. W. Smith: My understanding was that you were bringing them in earlier than that. If you do not get enough information—on the particular drain I referred to we finally went with the people who were paying the most money, not necessarily those having the most land acreage within the drainage area, and we put it through. Some of the people who opposed it—some of it

was closed drain, some open drain—wished one year later they had gone along with the council on the issue because they saw its benefits. You have to let them proceed far enough into the discussions and reports for everybody to get an accurate assessment of the total project.

Mr. Ramsay: The point is, though, Mr. Smith, that the length of time over which this proposal can proceed is what brings the perception that the process is undemocratic. That is why I am proposing that after all the engineering information is there and the assessments have been made there can be a determination established at that point by the people involved. If a majority of the people involved are against it, they then have a mechanism to appeal immediately before costs continue to escalate.

We feel we are on a roller-coaster with this thing. Every time it moves anywhere it is like a snowball running down a hill, it is picking up more and more. In this case, it is cost. People felt they were in this uncontrollable snowball rolling down this hill and they had no way of steering it.

That is why I am saying we should introduce a mechanism very close to the beginning, after all the engineering information is gathered and people have had time to digest that information. This is not going to occur in every case. I do not know in what percentage it will occur; hardly any, I suppose. It is a mechanism to try to make the system more democratic.

Mr. D. W. Smith: I still believe it is fairly democratic. I know if you are against something and you are in the minority, it appears to be undemocratic in some cases. But when you are dealing with 66 per cent of the people who are affected, that is a majority rule. That is democratic.

Mr. Ramsay: No, no. Where do you get the 66 per cent of the people affected? I am saying if a majority of the property owners are against the project after hearing the preliminary report, they would have a right to petition to have the tribunal hear the case.

Mr. D. W. Smith: Those people who are objecting still want their water to run through this system. Somebody has to pay the price.

Mr. Ramsay: I think you are presuming that. We do not know in an individual case why they are objecting to it, whether it is cost or whether they do not want the drain. I am not going to differentiate on what the reasoning is. I am only saying that if the majority of the people are against it, they have a right of an appeal at that point, not that it is quashed.

Mr. D. W. Smith: In southwestern Ontario, and I gave the example from my area, you can get 10 farms that are going to be directly affected by the work that is to be done. And yet if you take all the people upstream from that area, there would be no problem getting 50 per cent to object, because they could not care less about the poor devils who are downstream getting swamped with water every time there is a flood.

You have to remember that you cannot deal with everybody as fairly as you are trying to, because these 10 properties are affected negatively due to something that has happened in years gone by from the upstream people who are going to object to you doing the job in the first place.

Mr. Ramsay: That is one of my points. I do not want to pick up all those people upstream. That is part of the reasoning behind it.

Mr. D. W. Smith: You may not want it, but there are those who have to pay for the job to build a stream where perhaps all the water running into it requires a three-foot bottom. I use that as an example. But because you have to accommodate all the water upstream, you may have to build a 15-foot bottom, which will cost an awful lot more. Therefore, you cannot give them the same value of vote upstream as the people who are going to directly benefit, in my estimation. You may disagree.

Mr. Ramsay: It is not a vote, it is basically a chance to appeal before the costs escalate any further. Again I refer to what you said about forcing a drain.

Mr. D. W. Smith: It is forced by the majority of the people affected.

Mr. Ramsay: I am saying the majority of the people should have a say to appeal it.

Mr. D. W. Smith: There are cases.

Mr. Ramsay: I will stop. We could debate that all day.

11:30 a.m.

Mr. McGuigan: I want to add another situation that I came across. A farmer had sold off the frontage of his farm into house lots, I guess before the Planning Act stopped strip development. There are about 10 lots and houses in a row. I do not know if it is the same farmer, but the farmer behind wanted to put in drainage. Of course, the water went from the houses, where fill had been trucked in and they had largely been built up. The owners of the houses did not want to help pay for that farmer's drainage. When you put this in numbers, it was 10-to-1 against. That may be a situation peculiar

to southwestern Ontario compared to the east, where perhaps they do not have those situations. But those are all of the complications.

I appreciate both situations. We may have different concepts of this depending on where we live.

Mr. Chairman: Are there any other questions of Mr. Spencer? If not, I think the minister may wish to say a word.

Hon. Mr. Riddell: Unless you have a comment to make, Mr. Spencer.

Mr. Spencer: I will make one comment which will perhaps clarify. Mr. Ramsay was very clear in saying he was only dealing with the area requiring drainage. It would not involve the upstream people you were speaking of. He was saying, keep the petitions only in the area requiring drainage.

I should point out that the act does have an option for a preliminary report. If council had had the vision to realize that this instance would be a problem and had a preliminary report prepared, then one would not have to have a 50 per cent consensus; any one land owner could call for a tribunal hearing. That is only if council had had the vision to realize that this was going to be a problem and that we should have a preliminary report, which does cost more money. Again, councils have been reluctant to do that unless before the engineer was appointed it was clear they were into a real problem. They do not like to add additional costs to projects.

Mr. Ramsay: Mr. Chairman, I am back in the fray. In my 10 years as a township clerk, I finally caught on to what the problem was: the initial cost of the preliminary report. When we finally got into some problems we found from our engineers that the preliminary report was actually the final report. We would get a bill for \$6,000. On this last drain, the one we are having a problem with, I was still the clerk, and I said, "Listen, why do we not get a very preliminary little study, basically done for just about nothing."

We tendered out to two engineering firms, and we received a preliminary report. One bid was \$100 and the other \$75. For \$75 we got what I really call a preliminary report. That is what it should be, not a \$6,000 report, because then all of a sudden everybody says: "Oh, my God, we are in this. We are committed. We have to go." The people signed and they will get their grant, but they are going to have to pay and, if they want to get out of it, without getting the ditch.

I had a \$75 preliminary report done. But it got out of hand, and now it is a \$15,000 engineering

report. That is what we need, more \$75 reports to say, basically: "Yes, the water is here and it could go there. That would be the answer. It looks like it would cost approximately so many dollars. What do you think, fellows?"

Mr. Taylor: Did you get a pay increase too?

Mr. Ramsay: No, I left and came here.

Education is a point in this. I only picked that up when an auditor came from OMAF and I started talking to him about the problems, what I felt and why it was costing us so much, and how we felt. He pointed out to me that the preliminary report was really not one, that we essentially got one engineering report. Again, this is where the engineers, and especially the municipal clerks, do everything. One is not as sharp on everything as one could be.

This is part of the problem in some cases, that the engineer has this control. The municipal councils are made up of people who are busy in other walks of life and not giving it full-time attention. It is difficult to be up on everything. This is one area we can improve upon.

Hon. Mr. Riddell: Although I arrived late this morning due to the Ontario Federation of Agriculture question and answer period involving various ministers of the crown, I think I was here in time to hear most of the discussion.

I, too, have found it very constructive and share many of your views and concerns. Going back to 1967, when I was in the midst of purchasing my farm, I no sooner had done so than I found I was faced with a quite substantial bill for a municipal drain that was going to go through one of my properties, and I happened to be at the bottom end of the drain. It was going to cost me in excess of \$3,000 for a closed drain to take water from some of my neighbours further upstream, and some of them were assessed in the vicinity of \$100. I could not understand why I would have to pay that amount of money to provide them with an outlet I did not request in the first place.

As it was, the water was coming down from my neighbour's land to the part of my property that abuts the Hay swamp, a swamp I would never want to see cleared. As a matter of fact, I have fought any suggestion that the swamp be cleared, because it serves a very important function in my part of the country. This water was simply going into the swamp area.

But no, I had to go along with the municipal drain. As I say, it was going to cost me more than \$3,000, and I said: "I cannot afford it. I cannot go with a closed drain. I am going to have to go with an open drain," which was somewhat less. The

two of us at the bottom end paid the lion's share of the cost of putting in that municipal drain and the ones upstream were assessed a pittance, and I could never understand that.

I do share your concerns, and if enough concern is being expressed throughout the province, maybe it is time that we considered another select committee to look into this matter of drainage.

Mr. Taylor: Bring back Henderson.

Hon. Mr. Riddell: No, I do not want to bring back Henderson, because I am not particularly interested in seeing what their drainage projects are in Florida. I do not see a great deal of comparison between trying to drain alligator swamp and trying to drain the farm land here in Ontario.

If there is enough concern for a select committee, then maybe it is something we should pursue, but I have found this a very constructive discussion. Times do change, and maybe it is time we had another look at the Drainage Act.

Mr. Chairman: Thank you. Are there any other comments on item 5?

Mr. McGuigan: I would like to pursue my old love, the matter of conservation. The past government began a process of addressing the problem by putting up so much money. The present government has built upon that. It has hired people and begun a program to work on the problem of soil erosion. Senator Sparrow's report has brought this all to the fore again, not only in Ontario but throughout Canada. He has pointed out what a serious problem it is.

The real problem is, how do we go about actually achieving our goals. The easy way would be to pass a set of rules and say to the farmer, "Thou shalt do so and so." We all know that farmers—and the minister is one, I am one and so are a number of other people here—take a pretty dim view of someone from the outside stepping in and telling us how to farm.

11:40 a.m.

Most of the efforts today concentrate on looking at the problem after the water and the soil have got down to the ditches. We have seen some very good work carried on by the conservation authorities under the Ministry of Natural Resources. Around our part of the country you can see where they have put in retaining walls along the ditches. At the bends of the ditches they put in interlocking blocks of cement. They put a type of nylon cloth underneath that so the soil does not erode from underneath the facing. Many times farmers have put in rubble, brick, blocks or

whatever, thinking they were going to help the situation. It had very little effect, because the soil eroded from underneath those facings. They have now done a good job at that point.

As well, where gullies have started—water is coming down off a field and a gully starts, or it goes into the ditch or whatever watercourse it is—they have made good entrance points that stop the gullies from spreading. There are many instances where photographs have been taken. Dr. Charles Baldwin in Ridgeway has photographs of gullies that have virtually started to take the whole farm.

They have made a lot of progress in going to the point, but we have not made much progress in going back up on the fields and preventing that soil from moving. I am talking about all the methods that are known to agriculture, such as crop rotation and farming with the slope or across the slope rather than farming up and down it.

Unfortunately, one of the areas that is probably the worst example of an erosion problem is in Kent county on Rondeau Bay. Unfortunately, when the early surveyors laid out that land they laid the longitudinal length of the farm in the same direction as the slope. It is a pretty difficult situation in those farms when the natural way of farming with modern, big and heavy equipment is to farm it up and down the slope.

Other areas in that watershed are the other way. I do not know how we would ever persuade people to give up part of their land to a neighbour and then take up part of the neighbour's land to try to turn these farms around and make them east-west rather than north-south. I mention that just to indicate how difficult some of the questions are, going back to whoever thought of that in the early 1800s when all of that land was covered with vegetation.

We have to get to the farmer and persuade him. I use the word "persuade" because all of us know we are not going to go in with "thou shalt" legislation. I came across an article on motivation in a recent issue of *The Conservation Journal*, and I would like to touch the main points. It is by R. M. Davis and is entitled "Conservation: A Matter of Motivation." It is an American article.

It says that motivation must come from the top. Sometimes we think that that is not true, that we have to get local movement. We certainly have to get local co-operation.

In a sense he is probably correct in that people look to the Ministry of Agriculture and Food and to governments to set the tone and the direction. We do this by many of the matters we have just

been talking about: our taxation policies, drainage policies, grant policies and so on. I think we do have that motivation at the top now in the Ministry of Agriculture and Food. The question is to get it down.

When conservation began in the 1930s, I well remember the dust bowls out in the west. I remember newsreels, because we did not have television, of flooding on the Mississippi River, in the Tennessee Valley and all those sorts of things. So there was a big motivation from the 1930s. Then when we got so much science into agriculture after the Second World War, we got away from that. We did not need animal manure to provide fertilizer, because we could then get the fertilizer out of a bag.

Then so many other environmental issues raised their heads. Acid rain, chemicals and other items seemed to take the spotlight, and we forgot about soil erosion. But the issue has come back rather strongly, and I am proud to have actually had some hand in that.

So we come down to how to go about it. Communication is number one. Certainly everybody in politics knows the value of that.

There are nine steps in this article; I will just skim through it. First there must be goals and procedures, both long-term and short-term. We have made a fairly good start in setting those goals.

There must be competent staff. I think 14 people have been brought into the system as soil conservation officers. We have made a start.

The article does point out that there is no single discipline—agrologists, engineers, biologists, the various disciplines we have—that has all the expertise.

The minister will remember that I called for soil conservation to come back into the Ministry of Agriculture and Food as the lead ministry rather than the Ministry of Natural Resources. As a matter of fact, a few people in the Ministry of Natural Resources are not very happy with that.

I did not feel, and this article backs me up, that there was any single person who had a compartment so that one could say: "You are the guy who looks after soil conservation and soil erosion. You are the fellow over here who looks after high yields of crops, and you do not need to be concerned about what is going to happen to that soil over a period of years." The same applies to animal people too, because even there you can get into overgrazing and all those matters. I would point out that everybody has to be involved in the job.

It also takes the involvement of the community, and we are seeing this start to happen in the Rondeau Bay community. I hope the minister has a chance to go down there some day and actually see this. There is a group of farmers who have gone into conservation tillage with money from the Ministry of Agriculture and Food. They have a meeting every year—I have attended now for about three years—at which they take people around to show them these crops. They are certainly reducing the amount of erosion. They are not eliminating it, by any means, but they are reducing it and they are getting a good yield.

We should be encouraging local groups of farmers throughout the province. There is one group in the minister's area too. I cannot name those people, but there is always a delegation that comes down to Rondeau Bay. Do you recall their names?

Hon. Mr. Riddell: It is the Huron County Soil Conservation Association. It is the only conservation association established on a county basis in Ontario at this time. I am a member. I unfortunately do not get out to their meetings as much as I would like, but yes, we do have a conservation council established on a county basis.

11:50 a.m.

Mr. McGuigan: It is a good place to start: in your county. I would like to see this spread to all of southwestern Ontario; perhaps all of Ontario needs such involvement.

The fifth point is mutual confidence between the individuals who are trying to assist with conservation problems and the clientele they are serving. That was a point I had expressed that you would perhaps recall. The farm adviser who goes out and tells the fellow how to get 150 bushels of corn to the acre should be the same man who tells him how to look after the long-term viability of that farm. The people working together have to build up that mutual confidence.

It is a confidence we had in the Ministry of Agriculture and Food years ago when the agricultural representative was a single person in the community. In many of those offices—and they began, again, in southwestern Ontario—there was one person. Now we have offices that have eight or 10 or a dozen people, and the responsibilities are divided so that they do not get quite the same contact with the agricultural representative—the individual—they once had.

Sixth is the question of adequate funds. I suppose \$1 billion would be too much, but you have \$25.5 million over a five-year period,

which is a pretty reasonable amount of money. I would be glad to see a lot more added to it, but nevertheless, it is a good start.

Seventh, a successful conservation program requires a package approach. This has to be compatible with the economic and physical needs of the land owner, the operator or the manager. It has to be a planned approach, because the problem is that while a farmer might want to take a certain piece of land out of production in order to stabilize it, in order to get a crop of hay, grass or whatever, he is faced with the problem of how to meet his payments this year, because those payments have to be met regardless of whether he is going on a different plan of farming.

A package approach could be developed in some of the worst areas, and Rondeau Bay would perhaps qualify. They could go to a farmer and say to him: "We will set up a program where, if you agree on a contract basis to follow these rules for the next five years we will guarantee your income, at least at the level it has been in the past five years. You are not going to suffer any loss through the program."

You cannot do that for all the farmers in Ontario, I realize, but if we could demonstrate to some of these people they can operate using less fuel and fertilizer, we might even find there would not be very much of a payout. I do not know, but I am thinking there might be times when you would find that it did not cost very much money. As traditionalist as we are, and faced with debts as farmers are, not very many of them are even going to try a program without some incentive.

We must get out of the high-cost agriculture system we are in, buying huge amounts of inputs when we face low commodity prices. I believe Mr. Stevenson or anybody would agree we are faced with low commodity prices for as far ahead as anybody can see. Agricultural production has been increasing since 1980—this is a figure I saw in the United States—at a galloping rate of 15 per cent a year worldwide, because so many of the Third World countries are now really getting into agriculture. It is great for their economies and it is great for the future of the world, but it sure as heck is giving us a lot of trouble. We could develop a package, to be used on an experimental basis, that might point in that direction.

Eighth, existing technology is important. We have the technology. It has been in existence since the days of Hugh Bennett in the 1930s, who established the United States Soil Conservation Service. So many times we hear people say they

want more research in this area. I would be the last person to say we do not need research, but it seems we have enough technology to do many of the things required.

The ninth point, motivating people, is no different today than it was 10 years ago or 50 years ago. The most effective way of motivating people, as every politician knows, is on a one-to-one basis. We need newsletters, field days, educational meetings, demonstrations and similar events such as those already implemented on the Rondeau Bay watershed. They bring people there. The manufacturers come to this meeting to try machinery; people come with new pieces of equipment that do not require conventional ploughing or conventional cultivating methods. In many instances they plant a crop right on the old stubble. It is a great get-together for all who are interested in these areas.

I bring this before you. We need to be doing more than we have been in the past, when we were content with trying to clean up the problem after it developed. We deal too many times with the symptoms rather than with the main problem.

There have been suggestions in the United States, and I have mentioned them before, about the question of cross-compliance. We have so many methods where we pay farmers to do certain things or give them money to help alleviate the problems without attaching too many responsibilities. It is not true that we attach none, because in most of the rescue packages we have one of the things we require from the farmer is that he keep his books in a certain manner. We look at his personal spending, to see that he is not broke because he spent his money in Florida or has a boat or whatever. We do have some requirements.

As an example of one of the simplest things, it seems ridiculous when you drive around southwestern Ontario and see new ditches that have been put in with these big backhoes—and they are big, as my friend here has mentioned. Some of them have a 12-foot bottom in them. There is a lot of money being spent on those ditches.

The farmer driving alongside that ditch with a 30-foot disc behind his tractor can have the tractor far enough away from the bank that the tractor is in no danger of falling into it. He is driving along with the edge of the disc in the air and he cultivates the soil clean to the edge of the ditch. There is not a scrap or a twig of grass as a border area along that ditch. Then the rains that come down will break over the bank and break down the ditch. Two or three years later we are back into a big cleanout situation.

I think that is one area where you could come in with some cross-compliance and say to that man, "If you do not have an eight-foot strip of grass"—and that is not going to hurt anybody—"we are going to assess you more money for that ditch." I understand it can be done right now. Naturally, municipal councils are reluctant to do so because they face elections and those are the people who elect them.

Provincially, we could take one or two mild steps such as that. There are many broader steps we could take, but I am not one who believes in forcing these things; although as we have mentioned we certainly did force the drainage scheme. Perhaps we should be raising our sights a little and saying we can force the preservation of that drain as well as forcing the drain itself.

12 noon

All these matters affect our high costs. There was a day when if you wanted to clean out a drain down our way you would wait three years until you could get a contractor to clean it out. Now these great big hydraulic backhoes are all over the place. If you want your drain cleaned there will be a machine in tomorrow. You can look all over the country and see this happening. There have been beautiful ditches built in recent years, but there is no protection around them.

I have finished discussing my concerns. I want to commend the ministry for what it is doing. It has to continue doing that and more.

Mr. Ramsay: I would like to go back for a moment to some of the remarks Mr. McGuigan made. I applaud the minister for his openness in suggesting that now may be the time. He is probably right because the last select committee on drainage tabled its report to the Legislature in June 1974. A lot of us were thinking that now may be the time to set up another select committee. I think he is right; the time is right. I back him on that proposal and hope we will see a select committee on drainage established soon. It would be a great idea.

I would like to thank Mr. McGuigan for his remarks on soil conservation. It is a topic that has not been addressed all that much until recently and we do have a problem; it probably borders on a crisis situation in the most cultivated areas of North America. It first appeared in the United States and we are getting it here.

The primary cause of this is really a symptom of the whole malaise in agriculture today. The farmers know how to farm. I know what I should be doing when I crop barley and underseed with clover. It is great for the soil, but I cannot afford to do that. We know the different techniques, but

we have to try to get every darned cent we can out of that land.

That has been the trouble. We are starting to squeeze it now and we have been getting into heavy machinery and artificial fertilizer and less continuous corn growing. We are not getting the humus back into the soil that we get through natural fertilizer or growing organic matter and ploughing it under. We know what we should be doing, but we cannot afford it; so I applaud the minister for trying to help.

Mr. McGuigan: I disagree with that.

Mr. Ramsay: You disagree with that? All right, I will give you a chance in a moment, but my feeling is that in order to survive we have to squeeze as much as we can. That has been a proposal. Through the efforts of OMAF and through the fairer pricing that will come some day, I hope we will be able to tend the soil a little better. It is something we are going to have to do.

Mr. Chairman: It has been brought to my attention that the Minister of Agriculture and Food has a project in Indonesia dealing with improvements to agriculture. You might keep that in mind when you are contemplating your select committee.

Mr. Hayes: I would like to make two comments. One is on Mr. Ramsay's comments about engineers and preliminary reports. I can relate to that. When they feel a drain is out of repair, a lot of people want to get a preliminary report or an idea on what should be done and what the cost might be.

I have seen it happen lots of times in my municipality when an engineer comes in and provides them with an elaborate report—maybe not the type of report that even the council was expecting to get—that these people really did not want that, but they are stuck with the bill.

That is a very serious concern. Perhaps we should be taking a look at how much a municipality can do without an engineer's report, perhaps increasing the amount of money for routine maintenance, for example. Mr. Ramsay raised a very important point.

With regard to the last point Mr. McGuigan made about preserving or prolonging some of our drains, I sat on the Windsor and Essex County Suburban Roads Commission. That was a concern of ours in that committee. The road department is involved on a lot of these drains, and we discussed seeding or sodding some of these drains to keep a buffer back so that soil is not being continually eroded into the drain or it is not being ploughed or disked into the drain.

We really should be looking at an educational program to point out to people that it might cost a little more initially, but in the long run it is going to prolong the life of that drain. In Essex county we set up an educational program with the conservation authority to try to convince the municipal councils, the reeves, the deputy reeves and the councillors to go this route.

I think that is a very important point and that the ministry should encourage this because in the long run it is going to save a lot of the soil and prolong many of the drains in rural areas.

Mr. Chairman: Are there any other comments?

Mr. D. W. Smith: I want to go back and remind the minister that he could look into the possibility of compensating farmers for wetlands and woodlots. I was going to say in southwestern Ontario because we are a little different, but maybe part of eastern Ontario is the same. This does not force them not to develop those lands; it gives them an alternative. I wondered whether he could do a little more along those lines.

I sent a letter to the Minister of Natural Resources (Mr. Kerrio) on that very same topic. I think that will help some of the farmers in some of the areas.

I also wanted to go back to what Mr. Ramsay said. Mr. McGuigan disagreed with him. I guess maybe I am the middle-aged farmer among the three of us here; at least I figure that anyway. What I see Mr. Ramsay getting at here is that younger farmers with perhaps more debt cannot afford to put the clovers in the ground if we have not got a market for those clovers. Yet in the long term, that is what we need. In the short run, it hurts us if we do not have enough cash flow in our system or on our farm books, but in the long run this is what we should be looking towards.

I have to agree with Mr. Ramsay and I have to agree with Mr. McGuigan, but in different time frames. Until we get enough dollars down at the farm level, the young farmers are bound. I am sure we would hear from the chemical companies if everybody put his farm land into clovers. The fertilizer companies would object as well. This is reality to the younger ones who are still carrying debts, and some quite substantial debts. These are some other areas I hope the ministry could look into and help us along the way with.

Mr. McGuigan: I want to make a short comment. I certainly agree that hard-pressed farmers cannot set certain lands aside or change their practice, and I mentioned that when I was saying that we needed some contracts, possibly

with some demonstration projects to back up these people.

To go back over what has happened, as far as the soil erosion situation in southwestern Ontario is concerned, the problem we have today was created in the 1970s when we had corn going as high as \$5 a bushel. Soybeans were regularly around the \$8 figure; in 1972, I think it was, soybeans went to \$12. That was a period of great expansion. Whether young or old, the farmer said, "I have been scraping along all those years in the 1940s and 1950s and now I have a chance to make some dollars." They really went out. That is when they broke up the small fields, took out the fences and went into monoculture.

12:10 p.m.

In a sense it is an excuse when farmers say, "Just give me enough money and I will conserve." It goes back to the question of motivation. You have to have that motivation. All of us are partly right, but it bothers me when I go to meetings and farmers stand up and say, "Well, just give me more money and I will conserve." I have an awful feeling that if you give them more money they will buy bigger tractors.

Hon. Mr. Riddell: Perhaps I could respond. Mr. Spencer may wish to make some comments on our soil conservation and environmental protection assistance program and on the new erosion control aspects of the Drainage Act. I have given the matter of soil conservation a great deal of thought, as has my colleague the member for Kent-Elgin (Mr. McGuigan), who I consider to be the father of soil conservation. He has spoken on this matter as long as I can recall him being in the Legislature.

I share many of the concerns of Mr. Ramsay, Mr. Hayes and Mr. Smith. If it were not for the financial plight of farmers in this country today, soil conservation would probably be one of the greatest problems we have, and it will continue to be unless we take some strides to control it. We have done that with some of our programs, and Mr. Spencer can comment on them.

Many farmers are concerned about what is happening to their land. They see their land blowing away or running away, and many of them have taken measures on their own initiative, such as planting trees on farm and field boundaries. That is happening to a considerable extent in the area where I farm.

Many farmers would seriously consider going back to a crop rotation involving legume crops if there were a market for the end product. The ministry is working with those people who are

endeavouring to find markets in the United States, and elsewhere if possible. If we had a market for hay, there is no question in my mind that a lot of farmers would go back to a crop rotation incorporating legumes and grasses.

Farmers I have talked to have said perhaps the time has come when governments will insist they take 25 per cent of their land out of production. If they felt they could get as much income from 75 acres of land as they do from 100 acres of land—and they see no reason why they could not—we might control the overproduction situation we have. That would be true only if you could control the borders, but the farmers and we know that the minute we slacken off in production the void is going to be filled by our friends to the south. It is very difficult to mandate a percentage of that land out of production, knowing the food is going to be provided from elsewhere.

The farmers are giving a lot of thought to what can be done with soil conservation. As a matter of fact, we had a person meet with the deputy minister. I did not have a chance to meet with him at the same time. I had talked to this farmer a good many times about a possible agriforestry business in this province. He came up with a unique scheme about how we could compensate farmers for turning some of their land back into woodlots. It would almost be a loan to the farmers until the woodlots got to the point where they were able to generate some income. The person who has been working on this maintains there is a potential in an agriforestry business for an income of more than \$200 an acre, which is better than the farmers are getting now with the crops they are growing. Corn is now at \$2.90 a bushel and soybeans are down below \$6.

Mr. McGuigan: At today's prices, it probably amounts to no income.

Hon. Mr. Riddell: That is right; no income. We are looking at projects. I talked to Dr. Switzer after the farmer left, and I understand from him there is considerable potential for an agriforestry project in this province; so we are going to pursue it.

I am afraid the farmers, with conditions as they are, have to have some kind of monetary persuasion to take some of their land out of production and put in a crop that will once again build up the organic matter and the soil structure. However, with prices the way they are, farmers simply are not going to voluntarily remove some of their land from production. They cannot afford to do it, as Mr. Ramsay has already indicated. I doubt if they will do it unless, of course, it is

mandated. It is very hard to mandate that type of project, knowing there will be all kinds of food coming in from the United States to fill in the void, even if we did try to correct the overproduction problem we have in this province.

I am very concerned about what is happening to our soils. If you step out on to the sundeck at my place on a windy day you would wonder if the sun was going down because of the way the soil is blowing. You cannot see the sun because of the drifting soil. Believe me, that bothers me to a great extent. When you see farmers go out on to their land to replant the corn because the wind removed the soil from around the roots of the corn and it fell over, then you have to be darned concerned.

I happen to agree with some articles I have read. One article—I forget who wrote it—said we could become the Ethiopia of North America in a few decades if we do not take steps to try to control soil erosion. It is that serious, and it is going to be a priority within my ministry.

Having said that, maybe Mr. Spencer would like to comment.

Mr. Ramsay: I applaud the minister for being open to innovative ideas to address the problems of oversupply and soil conservation. I am pleased he is open to ideas and people coming in with proposals such as the agriforestry one. These are things we have to look at.

I wonder whether I could ask the committee, perhaps on a point of order, if I could ask a question that has nothing to do with this vote but continues a line of questioning I have pursued with the minister throughout these estimates. It deals with what is probably the most immediate crisis in agriculture in Ontario today. I want to see what is happening as far as that goes.

Mr. Chairman: Does the committee have any objection to that?

Mr. McGuigan: Is it not a matter we are coming to in some other vote?

12:20 p.m.

Mr. Ramsay: It is probably not there, but we have talked about it. It is tobacco. This continues the line of questioning I have pursued with the minister about provincial marketing powers.

I spoke last night to the president of the Ontario Flue-Cured Tobacco Growers' Marketing Board. I believe he spoke to the minister this morning; I am not sure. It seems that in the present negotiations it has become of prime importance to the growers to have provincial powers in dealing with the negotiations. They do

not have anything in their arsenal when they deal with the companies.

I think you have come to agreement on satisfying conditions that you had set down; they agree to those. They want to have those marketing powers as soon as possible so they will be able to deal with the surplus crop the manufacturers here do not use. We can sell it to different countries, and we should be able to give these people the tool to market their product.

Hon. Mr. Riddell: Shortly after I became minister, I brought the two sides together. As you well know, there was a complete breakdown in negotiations. I called in the manufacturers and the growers. We spent an afternoon with them, and we got them agreeing on at least five items they could negotiate. Unfortunately, the injunction that was put on the report tended to foul things up a little, but we did get them back negotiating.

Just last Thursday, a meeting was held between the Ontario Flue-Cured Tobacco Growers' Marketing Board and the tobacco manufacturers. I can tell you that progress was made towards a tentative agreement. It will hinge on whether they can get the kind of co-operation they are asking of the federal Minister of Agriculture regarding an extension of the time for advance payments next year. I think Mr. Wise is fully aware of the dilemma we are in as far as the tobacco industry is concerned, and I am hoping he will render the assistance they are asking for.

I indicated to them that I was prepared to give them agency powers provided they made certain commitments to me. I do not want to give them agency powers only to have them come back and say: "Mr. Riddell, we have 100 million pounds of tobacco on hand. We do not know what to do with it. We cannot find a market for it. You simply have to take it off our hands".

Mr. Ramsay: Have they not satisfied those commitments?

Hon. Mr. Riddell: Yes. They have written me a letter. There are some adjustments we have had to make from time to time, but I am satisfied with the letter I have now received.

I have the mechanics in place to establish agency powers. I believe the agency powers should come in what I call the second phase of this whole thing; that is, in the readjustment phase. If we are going to have an export consortium comprising the producers and the manufacturers, there would have to be agency powers in conjunction with that.

As I say, I have the mechanics in place to establish agency powers. However, in my view, agency powers are not a factor in the settlement of the 1985 crop, I really do not think they are.

Mr. Ramsay: They think it is a factor now. I was talking to the whole executive last night, and its members are very concerned. I wondered whether they had pressed the issue with you, and they thought they were going to do that—

Hon. Mr. Riddell: You would be the first person to appreciate that I do not want to do anything now that is going to interfere with the negotiations and the settlement, which I think they are on the verge of reaching.

I am very optimistic that the auction is going to open before Christmas. As I say, they have reached a tentative agreement based on the extension of the time for advance payments rendered by the federal Minister of Agriculture. I trust they will have met with him by now, or will be meeting with him this week; but I certainly will be following their progress with a great deal of interest. If, as you say, it means agency powers are going to have to become a factor in the 1985 crop, that is a decision I will have to make at that time. I am not going to make any decision or commitment now because I do not want to interfere with the negotiations that are going on. I do not want to show my hand because that might show favouritism for one side against the other. Then the whole thing would break down again.

I want to stay out of it unless they come back to me and say, "It has broken down and we are going to have to attack it in a different manner." If they come back to me we are going to have to take another look. We are making progress with the 1985 crop, and I am optimistic the auction will open before Christmas.

Item 5 agreed to.

On item 6, red meat industry development:

Mr. Ramsay: I would like to take a look at the beef marketing report generated by the task force the former Minister of Agriculture and Food, the member for Downsview (Mr. Timbrell), put into effect, which got scuttled at the last minute for complicated political reasons.

A lot of work was put into it and it deserves a look to determine whether, with the economic climate we have today, there are some proposals in that report that might be acceptable to the people in the red meat industry. It was a comprehensive report. The recommendations went from doing more research to a comprehensive marketing system. The industry probably would not be ready—I know it is not—for supply

management, but there are some good things in it about orderly marketing that might be of benefit to the red meat industry.

Will you consider assigning somebody the job of looking at it to see what is there and to try to get some consensus in the farm community as to whether there are ideas in that package? A lot of work was done by Ralph Barrie and other top people in this province. It could help the situation today, along with tripartite stabilization.

Hon. Mr. Riddell: I have not had many farmers, if any, approach me to ask that I introduce the beef marketing agency recommended by the commission established by the government of the day.

The task force examined two marketing issues that received wide support from cattle owners when the Beef Marketing Agency Commission held meetings across the province. Those issues were standard weighing and trimming procedures in the plants, and an improved market information system. In both cases, the task force made specific recommendations for improvements. The ministry is proceeding to employ two inspectors to apply those standards in response to the recommendations for standard weighing and trimming procedures.

12:30 p.m.

We are following up on some of the recommendations made by the commission. The recommendation not accepted by the producers was that for single-agency selling, if memory serves me correctly. Perhaps Dr. Pettit or Dr. Collin can comment on that.

If the producers come to me and say, "There seems to be fairly unanimous consent that you should bring back that report," of course I will have to take a look at it. However, I have not had that kind of request. Maybe the reason for that is the farmers are satisfied that two of the recommendations they have been concerned about for some time now are being addressed, or will be addressed when we appoint the two inspectors.

Dr. Collin: I do not have much to add other than to explain that the process the minister is talking about is a task force of Ontario Cattle-men's Association people and our own ministry people. The task force has been asked to address subject areas where there is consensus and support of producers in the cattle trade, exactly as the minister has said.

He covered that aspect very well, but I might expand a little on the second aspect, the information-collecting process. The task force is looking at better reporting, summarizing and feedback of market information from the point of

sale. It is a complex process where communications technique, computer technique and individual slaughter operations' needs are being discussed. Meetings are ongoing. They are basically held every two weeks. The committee is meeting on these issues of trim, inspection and market information. I expect that within a month we should have specific recommendations from this task force for improved market information, which is one of the two areas where there was strong consensus.

In our dealings with the committee, we have not felt, measured or recorded any other area of strong consensus in cattle marketing at this time. Our people are keeping an ear to the ground and are sensitive to any change, but as the minister indicated there is no real indication at this point.

Mr. Ramsay: A lot of work was put into the report. I think my concern that it might be sitting on a shelf somewhere gathering dust has been answered. People are examining some of the recommendations. I am pleased with that.

Dr. Rennie: Mr. Ramsay made a comment about research. I would like to add that for the red meat plan now under way, as part of the funding package \$1 million was set aside for research and development projects. Of that, around \$860,000 has already been allocated to a number of projects. We are holding \$150,000 at the moment for possible allocation to a specialized area of electronic identification of live and carcass animals. The research is very much an ongoing part of that.

Mr. McGuigan: I think there were a lot of good recommendations in that report. A lot of thought was put into it. As I recall, three of us in our party, Robert McKessock, you and I made submissions.

The recommendation I made was that when a farmer receives a bid, he not accept it for 24 hours or whatever short period of time is necessary for him to get the bid to a central office. The bid would then be flashed to all the other buyers. If any of those buyers wanted to up that bid, the information would get back to the farmer, but the farmer would not necessarily be bound to accept it. He could still be his own master and accept a lower bid if he wanted to.

That was about as mild a form of marketing control as you could have and still be meaningful. At the meetings I have been to in Kent and Elgin counties—my riding covers two counties—I cannot detect any acceptance of any interference in that marketing process.

You have to face the fact that the forecast right now in the United States is for lower cattle

numbers, which probably means that with better prices people will be off to the races again. If I can judge the tone of this ministry, it stands prepared to act when and if the farmers are prepared to act, but I cannot detect any indication they are ready to move.

Mr. Chairman: The time for adjournment has arrived and we will stand adjourned until next Tuesday at 8 p.m., when we will return to vote 2103, item 6. We wish the minister well in Halifax.

The committee adjourned at 12:35 p.m.

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 McGuigan, J. F. (Kent-Elgin L)
 Ramsay, D., Vice-Chairman (Timiskaming NDP)
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 South, L. (Frontenac-Addington L)
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From the Ministry of Agriculture and Food:

Collin, Dr. G. H., Assistant Deputy Minister, Marketing and Standards
 Rennie, Dr. J. C., Assistant Deputy Minister, Technology and Field Services
 Spencer, V. I. D., Director, Soil and Water Management Branch



No. R-19

Hansard

Official Report of Debates

Legislative Assembly of Ontario



Standing Committee on Resources Development
Estimates, Ministry of Agriculture and Food

First Session, 33rd Parliament
Tuesday, December 3, 1985

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Vice-Chairman: Ramsay, D. (Timiskaming NDP)

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Hayes, P. (Essex North NDP)

McGuigan, J. F. (Kent-Elgin L)

Rowe, W. E. (Simcoe Centre PC)

Smith, D. W. (Lambton L)

South, L. (Frontenac-Addington L)

Stevenson, K. R. (Durham-York PC)

Also taking part

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Lupusella, A. (Dovercourt NDP)

Riddell, Hon. J. K., Minister of Agriculture and Food (Huron-Middlesex L)

Clerk: Arnott, D.

From the Ministry of Agriculture and Food:

Burak, R., Assistant Deputy Minister, Finance and Administration

Ediger, H., Executive Director, Food Land Preservation and Financial Programs

Henry, Dr. J. N., Director, Veterinary Laboratory Services

Hoag, N. W., Director, Agricultural Representatives Branch

Johnston, J. R., Drainage and Water Management, Soil and Water Management Branch

Pettit, Dr. J., Director, Animal Industry Branch

Pinder, K. W., Regional Manager, Southwestern and Eastern Ontario, Food Land Preservation Branch

Rennie, Dr. J. C., Assistant Deputy Minister, Technology and Field Services

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, December 3, 1985

The committee met at 8:11 p.m. in room 228.

ESTIMATES, MINISTRY OF AGRICULTURE AND FOOD (continued)

On vote 2103, agricultural technology, development and field services program; item 6, red meat industry development:

Mr. Chairman: Does anyone wish to speak on this item?

Mr. Villeneuve: I know the red meat plan is quite new, but possibly the minister or someone from his staff can respond. I have some concerns regarding questions raised this weekend, particularly in the area of market hogs.

For example, I understand that market hogs have to be indexed at a minimum of 80 to qualify under the tripartite or bipartite plan. It is also my understanding that in order to be graded they have to go through the type of slaughterhouse that has a grader. What occurs quite extensively in the part of Ontario I come from, where a hog grower has a good market through a local slaughterhouse, is these hogs are not graded by anyone. Are these producers going to benefit from stabilization under the recently announced tripartite plan?

These hogs go through the sales barn. We have one of those sales barns at Greely which handles many hogs, some of which possibly wind up in Quebec. They do go through a public sales barn.

Perhaps the minister or someone from his staff could comment on what happens. These hogs are market hogs. I am quite sure they probably all index 80. From the receipts I have seen, a lot of our good producers are indexing well over 100. What happens?

Hon. Mr. Riddell: Henry Ediger probably knows more about the details of this program than anyone so I am going to ask if he would respond.

Mr. Ediger: Hogs that are not sold through the Pork Producers' Marketing Board are eligible for stabilization. As long as they are not sows or boars or something like that, which would not be graded, they would be eligible.

These people, of course, would have to enrol differently than they would when selling through the pork board. Through the pork board we

would deduct the fees or the premiums or what have you. I would expect they would have to pay their premium up front but they would qualify.

Hogs sold in Quebec which have been raised here would not be eligible for stabilization here. I would assume they would be eligible in Quebec if Quebec signs the tripartite agreement.

Hon. Mr. Riddell: What about the 80 index?

Mr. Ediger: If they go through the grading system, through the pork board, the 80 index is the standard we go by. If they are not graded through the pork board, as long as they are finished hogs that are not sows or boars or something like that, they would be eligible for stabilization. We would not be that tough in that regard.

Mr. Villeneuve: I am pleased to hear that.

If I were the hog producer, what would substantiate the fact that I had taken a dozen hogs to the local slaughterhouse? Do you have an inspector? What do I need as proof positive that I took 12 market hogs that were 80-plus index?

Mr. Ediger: If we had something from the slaughterhouse that indicated he felt they were hogs that qualified under our program, we would accept that.

Mr. Villeneuve: When they go through a public sales barn such as Leo's Livestock Exchange Ltd., which is a large agent for farmers, slaughterhouse owners and what have you, what happens to those hogs? Who gets the stabilization? Is it the drover who bought them and took them to the slaughterhouse?

Mr. Ediger: No, the farmer who raised them for slaughter gets the stabilization payment. We have not gone into this and we have not discussed that in detail, but I would expect that we would also take the farmer's word for this. We are talking about a relatively small number compared to the total hogs that are slaughtered in Ontario. We would not eliminate these people from the program.

Mr. Villeneuve: If the purchaser of these hogs happened to be taking them to Quebec for slaughter, would that exclude the owner?

Mr. Ediger: I am not too sure how to answer that. I would hope not. The owner raised them for slaughter. Just because they were not slaughtered

in Ontario should not exclude them from our program.

Mr. Villeneuve: Are you going to have a group of inspectors in place? How will you have a handle on this?

Mr. Ediger: We are talking about a very small percentage of the total that may enrol, maybe one or two per cent of the total hogs. It may be more than that percentage of the producers. Since these people are going to have to enrol and pay money up front, the number that will participate will probably be smaller, relative to the ones that enrol through the pork board. Generally speaking, these are smaller growers to begin with.

I would anticipate we will take their word for a lot of this. Stabilization is not the kind of program where we want to do a lot of individual inspections and so on. If the farmer signs and says, "This is the kind I sent to market," and he has kill slips or something such as that, I would expect we will take his word for it in 99 per cent of the cases.

Mr. Villeneuve: It would be very bad news if someone took a load of good hogs to one of the community auction places and, for whatever reason, they wound up at a Quebec slaughterhouse and a month later he found out, "Sorry, but the purchaser excluded you from stabilization." I would hope that if he could prove he had them at his farm, grew them in Ontario and paid his share of the premium, there would be a mechanism there.

We are close to the border and some of our people take hogs through to Lachute. If they knew that this totally excluded them, fine; however, you take them to a place such as Leo's and if the purchaser happened to be someone who needed to fill an order and they wound up at a slaughterhouse across the river in Quebec, I would not like to see that exclude the grower.

Mr. Ediger: I would think our rules and regulations would be "raised for slaughter in Ontario." If I said before they had to be slaughtered in Ontario, I do not think that is necessary. It is necessary that they are raised for slaughter in Ontario. We are looking for residents of Ontario who spent their money on feed and other things that are concerned in Ontario.

Mr. Villeneuve: Okay, let us use another scenario, a 200-pound open gilt that winds up, according to the owner of this gilt, for market purposes. Let us hope that the possibility of a rise in hog prices occurs. Another producer decides this is a good-looking package of gilts and he

buys them to take them back to the farm for breeding.

Mr. Ediger: Not eligible.

Mr. Villeneuve: That type of buy would exclude the producer? Would the buyer have to sign to the effect that he is actually taking them back to the farm for breeding purposes?

8:20 p.m.

Mr. Ediger: It would be very difficult for us to trace the animal that way. If you ask me the question specifically, as you have, I have to say I do not think that gilt is eligible. It is the same with the gilts the farmer raises on his own farm for breeding purposes. They are not eligible.

Mr. Villeneuve: You do not foresee having a group of inspectors or a policing mechanism in place for the time being, for either the beef or the hog program?

Mr. Ediger: I would hope the way we are designing the hog program will mean we do not need any inspectors, or very few inspectors. I do not anticipate we are going to have to inspect very many farms. With hogs, it is not welcome on most of the farms, anyway, simply because of the disease you might spread.

I would hope we will need very few inspectors in the beef program as well. The program should be run in such a way that the documentation pretty well substantiates the kind of information we need.

Mr. Villeneuve: I would certainly hope so. I have enough confidence in our farmers to know that a large percentage would not try to benefit from that type of situation.

Item 6 agreed to.

On item 7, advisory services:

Mr. Chairman: Any comments or questions?

Mr. Villeneuve: I do not know whether this would fall under advisory services, but about two months ago a veterinary problem was brought to my attention. It was toxicity that finally killed 15 mature dairy cows owned by a young farmer in Dundas county. I do not believe they have nailed down exactly what the problem was to this day. I did speak with a number of veterinarians at Guelph back in the spring, if I recall correctly.

Would you know the situation I am speaking of?

Hon. Mr. Riddell: Dr. Henry is the gentleman who will be responding.

Dr. Henry: We spent a lot of time, both in our veterinary laboratory services branch and also with Dr. Pettit of the animal industry branch, investigating this situation.

Our best estimate is that the deaths were probably due to a botulism, which is a disease caused by a clostridial organism. It is extremely hard to prove. The problem is that quite frequently the animals die several weeks after they consume the toxin, and therefore you frequently cannot detect the toxin in the food stuff that is suspect.

We did exhaustive testing, and all the tests came up negative.

Mr. Villeneuve: I realize that. Is that really the only way to isolate that particular type of microtoxin, or whatever that happened to be?

You can appreciate the dilemma these two young farmers were in. They were losing one and two mature cows a day. It was very sad. They contacted me, and all I could do was telephone veterinarians who told me they were doing the best they could. It seemed it was beyond anyone's grasp at that time. This farm did take one animal to Guelph while it was still alive. It subsequently died. Extensive testing was done on that animal, as well as on specimens from some of the others that passed away.

Is there anything that could be done, either through more intensive research, perhaps in co-operation with labs at the federal level, or do you feel you have pretty well come full circle and you cannot go any faster when you are trying to isolate some of these problems.

Dr. Henry: That is right. There are some of these situations you apparently cannot solve. We did involve the expert on botulism from the Department of National Health and Welfare. He also did exhaustive testing, including mouse inoculations and using anti-sera to try to protect mice against various types of the toxin. He did not come up with any answers either in this case.

Mr. Villeneuve: So you are satisfied that, even in conjunction with federal labs and whatever, what it takes to isolate these and to try to grow them and to identify the problem is a matter of time, pure and simple.

Dr. Henry: That is right. There are many cases of this in the literature, and they all make the diagnosis as probable clostridial toxæmia because of the difficulty in isolating the toxin.

Mr. Villeneuve: It was a very unfortunate situation and I sympathize with the people involved. Is there anything that can be done financially for someone who is struck with a situation like that?

Dr. Henry: Not at the moment. The only diseases for which there is compensation now are

the ones named under the federal Animal Disease and Protection Act.

Mr. D. W. Smith: I cannot be certain whether you would ask this question under advisory services. I wonder what the Ministry of Agriculture and Food has done about tingle voltage on farms. Is this the area where you would bring this up? Have we got any information on it?

Interjections.

Mr. Chairman: Ask the question.

Mr. D. W. Smith: Is the ministry doing any research on tingle voltage? Do you have any advice for farmers who are having problems with it? Where does the ministry stand on this?

Hon. Mr. Riddell: Before Dr. Rennie comments, I might say that we are in the process of doing some research on tingle voltage at one of our research centres. It may last for 18 months. We are going to subject our own dairy cattle to induced tingle voltage to ascertain whether it causes the problems some farmers have encountered.

Some farmers maintain they have had a loss of production. Other farmers have maintained they got nothing but bull calves. We are going to be doing considerable research into this to see if such allegations are well founded.

Mr. Chairman: I am not included, but there may be members of the committee who do not understand tingle voltage. Perhaps you could explain it?

Mr. Barlow: You explain it, Mr. Chairman.

Mr. Chairman: I had better not. You get down on your hands and knees on a wet floor and put a little juice to—

Hon. Mr. Riddell: Dr. Pettit, do you want to respond? First of all, comment on what tingle voltage is, how it is caused, and then elaborate on the comment I made.

Dr. Pettit: Tingle voltage is a term used to describe the low level electrical shock affecting livestock; dairy cattle, swine, and other stock as well. It is believed to be caused by excess electrical juice in the barn, especially in the metallic and wet areas.

8:30 p.m.

There is a large number of possible results attributed to tingle voltage. Many of these have yet to be firmly tied down, hence the reason for the research project. Some of the suggested problems include reduced milk production, loss of calves, animals that are hyperexcitable and difficult to handle, etc.

Our dairy specialists have worked on this problem for several years. It is one that can be handled on an individual farm basis by special equipment that will cut down on the amount of extraneous electrical juice in the barn. I am sorry I am not able to identify the equipment at present.

The problem in certain situations seems to be greater than Ontario Hydro and others are able to control. That is the starting point. Do you have any questions?

Hon. Mr. Riddell: Dr. Rennie, did you want to add anything to that?

Dr. Rennie: I wanted to comment further on what you and Dr. Pettit have said. The research project is at the New Liskeard College of Agricultural Technology. We are devoting almost an entire herd to this, as the minister indicated, over quite a considerable period.

Some have questioned us doing it at this time because a unit is now on the market which farmers can install in their operations if it is detected they have the excessive level of voltage to which Dr. Pettit referred.

We do not know the exact level at which there are effects on the various things to which the minister referred, such as milk production, reproduction and other aspects. It is not available in the literature anywhere because it has not been researched. So we feel, for the long term, that we should devote considerable effort to determining some of these factors.

This is a co-operative project between the Canadian Electrical Association and ourselves. The Ontario Milk Marketing Board has also been involved. The barn is currently being renovated and we hope the project will be well under way by either late this month or early in the new year; then we can get some more definitive answers on the level that affects the majority of cattle.

Mr. D. W. Smith: You may have answered this already. Is this being done in conjunction with Ontario Hydro or are you doing it more or less on your own?

Dr. Rennie: There has been a lot of discussion with Ontario Hydro on this one, very much so.

Mr. G. I. Miller: How many cases have been reported; do you have a number?

Dr. Rennie: No, I do not have a figure, Mr. Miller. There has been a lot but we do not have a record of the number of cases that have been reported.

Mr. G. I. Miller: Is it because it is not properly grounded; is that what creates it?

Dr. Rennie: Yes.

Mr. G. I. Miller: It still comes through even if it is grounded at the box?

Dr. Rennie: Yes.

Mr. G. I. Miller: I have only heard of one case in my riding. I just wondered how many you had heard of in the area.

Mr. Stevenson: It is much more common than people believe it is. We have produced livestock on three farms and we have tingle voltage problems on two of the three.

Mr. G. I. Miller: How do you determine it?

Mr. Stevenson: When you put one hand on the stabling or in the water bowl and the other hand in wet manure you damned well soon find out if you have tingle voltage or not. It is pretty obvious there are problems when you see cattle so badly affected that they take a drink by lapping the water like cats, sticking their tongues into it and trying to flick the water into their mouths. When it is much less than that, you see it in reduced water uptake or in agitation because of slightly electrified stanchions or whatever.

In some cases it is not that easy to see. In any case we have been involved in, we could not feel it by touching the stabling or the water bowl with one hand, but we had no problems feeling it when we put the other hand into something so as to be well grounded. It is quite common.

Mr. G. I. Miller: When you set up the research then, how are you going to determine if there is tingle going through?

Mr. Villeneuve: There is equipment to measure that.

Dr. Rennie: Our field engineers do a lot of work with farmers in determining whether they have a problem and the extent of the problem relative to the level to which Dr. Stevenson was referring. So we have been working with individual farmers on that a great deal.

Mr. G. I. Miller: How will you know if the box is properly grounded? I think that is what I am saying. Has it been properly put in? When you set up research, how are you going to get that tingle going through? That is the basic question.

Dr. Rennie: I do not have the research project plan with me this evening but this will all be monitored very closely. We will change the level of voltage that goes through, that will be part of the research plan. There will be active recording of the levels at all times in the different treatments so we can measure the effects on the characteristics we wish to look at. It is costing a lot of time to install the equipment to record all this at all times.

Mr. G. I. Miller: I have one further question. Is there any equipment or machine you can install that is fine enough that it can be determined? You say you put your hand on it and you can feel it but is there any equipment that can pick that up?

Dr. Rennie: I do not know what that equipment is but it is a kind of meter our engineers are using. I do not know whether Mr. Hoag would know that.

Mr. G. I. Miller: If it is not properly installed and not properly grounded, it has to be one of the causes of it. I know it is creating a lot of stir. In your research, how are you going to determine whether that is going to be there? Why can you not use a barn already in place? How are you going to get the current in there?

Dr. Rennie: If I might comment on that part and then I will ask Mr. Hoag, the director of our agricultural representatives branch, to comment on the field aspects. Within the experiment, all of it is being recorded. We will be able to very accurately measure the voltage going through the system at all times. That is part of the research design, to be able to measure the effects of it.

I am not concerned about that at all. We spent a lot of time working with the Canadian Electrical Association. They are satisfied the recording mechanism is such, and the control of it is such, that the final results will be accurate. Norris, do you wish to comment on the field equipment the staff is using?

Mr. Hoag: In the field, I know our agricultural engineers and dairy specialists have used low-level voltage meters. It is a low-level voltage, something in the neighbourhood of eight to 15 volts. It is not easily detected but it is detectable by a human being and an animal is affected by it. Our staff has measured this gradient difference between the equipment in a barn and a ground to the outside and are able to measure that amount of difference in the voltage.

There was a question regarding the grounding. In one or two cases in which I was involved, we found in those instances that the poor grounds were not even on that farm but were on farms two or three farms away. It can travel a fair distance.

Mr. G. I. Miller: My colleague has had quite a bit of experience.

8:40 p.m.

Mr. McGuigan: I was on a farm about a month ago where the farmer had been involved in tingle voltage research and problems for years. Everything was supposed to be taken care of. They had a voltmeter on it and it was showing 0.9 of a volt. So this step is everywhere.

Your biggest problem will be how to find a farm or location that does not have voltage surging and do a check. In what I have read about it, they even have it in buildings where there is no hydro connected. They carry lanterns and can have tingle voltage. Even the building can be a battery if it has galvanized metal on it and the metal touches the manure. There is a theory that the barn becomes a battery.

However, since it seems to me that we have been hearing about tingle voltage for 15 to 20 years, have you done a search of all the literature in North America and Europe? Has no one ever done an experiment on this? It seems inconceivable, since we have so many research departments all around the world and since this problem has been around for a long time, that no one has ever done an experiment on it. What I am asking is, how extensive a search have you made?

Dr. Pettit: Of our dairy specialists, one in particular has done a great deal of looking, and as far as I am aware there is none. There is not the background in research one would expect. You mentioned the difficulty in setting up controls. Dr. Rennie indicated the establishment of this project in the north and the extreme care necessary. That may be one of the reasons it has not been looked at in depth.

From another point, with this type of problem, for those who maybe are not using the voltmeter and determining for certain whether they have the problem, there may be other conditions blamed on tingle voltage that just muddy the water. I guess that is it.

Mr. Chairman: I suspect there is a quorum call and we can either stall the proceedings as we go or adjourn for five minutes.

Mr. Stevenson: Let us carry on until we hear what the bells are about.

Mr. Chairman: Fine. Are there any further questions on vote 2103, item 7, the advisory services?

Hon. Mr. Riddell: I might just say on this tingle voltage that, as Dr. Stevenson has implied, livestock are far more sensitive to stray voltage than humans, and I suppose one of the reasons for that is that, unlike homo sapiens, livestock have their feet squarely on the ground.

However, the interesting irony of this whole thing is that we have seen tremendous increases in our livestock production, and I am sure that where we have had tremendous increases in milk production they have also encountered tingle voltage. I suppose that is one of the reasons we simply have to do some research on this. Not

every farmer can complain about tingle voltage being damaging to their herds, although I question very much whether there are many farms operating today where there is electricity running into the barns that do not encounter some level of tingle voltage. On the one hand, we have seen a tremendous increase in production and, on the other hand, we have farmers saying tingle voltage has led to serious damage to their livestock production. It is just an irony I want to point out.

Mr. Chairman: Are there any other comments? Mr. Ramsay, I did not think you could let this question of voltage go by.

Mr. Ramsay: No, absolutely. I must say I got a real charge out of the minister's remarks. I was not shocked by anything he said, and on the whole I found it very enlightening.

Mr. Chairman: Thank you anyway, Mr. Ramsay.

Item 7 agreed to.

Mr. Ramsay: I would like to make some remarks on tile drainage debentures. It is a program—

Mr. Chairman: Sorry; before we do that can we dispense with item 8?

On item 8, international development projects:

Mr. D. W. Smith: Since international development projects is a new activity, I want to ask what countries you are working in, what the projects are all about and what you are trying to learn, or are you helping someone out?

Dr. Rennie: I would like to ask Dr. Jim Henry to comment on that; he is the project leader on this. He is the director of our veterinary laboratory services and is responsible for this one specific international project.

Dr. Henry: This project, which has been under way now for about a year, is an aid project on the island of Java in Indonesia. The objective of the project is to construct a veterinary diagnostic laboratory—which they refer to as a disease investigation centre—to equip the laboratory and train the staff. It is run totally on Canadian International Development Agency money. They are supplying all funding and I am the only civil servant permanently involved in the project. CIDA is recompensing the ministry for part of my salary to cover the expense of my involvement.

We have five Canadians in Indonesia in a consulting capacity and we have three Indonesian veterinarians here in Canada taking postgraduate training in various facets of veterinary medicine. Two of them are at Guelph and one is

at Saskatoon. The plan is to train 12 Indonesian veterinarians at the graduate level in Canada. Over the next five years of the project we will have had approximately 40 man-years of consultants going to Indonesia from Canada in various specialties of veterinary medicine. We think it a very worthwhile project.

Mr. D. W. Smith: Will Canada be able to export cattle to Indonesia or are you over there on this project to help the Indonesians develop a better veterinary program for the farm people over there?

Dr. Henry: We are certainly there to try to promote better veterinary care in Indonesia, but we hope that a spinoff of this will be the possibility of exports to that country. It just happens that the project manager over there now is Dr. Douglas Mitchell who did some of the earliest pioneer work in embryo transfer at the Animal Disease Research Institute, Ottawa, and later at ADRI, Lethbridge. Certainly Dr. Mitchell will be in a position to give advice to the country in both semen and embryo transfer exports.

Mr. D. W. Smith: How big is the cattle population in Indonesia now?

Dr. Henry: They have a very high bovine population. Most of them are water buffalo and oxen, but there is a large number of Friesian cattle, especially Australian Friesian. We think our Canadian Friesians are a much better breed, but of course we may be a little biased. We had Indonesian civil servants over here last year and we gave them an extensive tour of some of the better dairy and beef farms in this area. I can say they were most impressed.

Mr. D. W. Smith: How long do you think this program will take to get going?

Dr. Henry: The project itself is six years and we have five years remaining. We are just starting the construction about now; I think some of the foundations have been dug.

Mr. D. W. Smith: Is this \$2 million for one year or the entire six years?

8:50 p.m.

Dr. Henry: That is for one year. Our commitment from CIDA is \$7.8 million over six years.

Item 8 agreed to.

On tile drainage debentures, the Tile Drainage Act:

Mr. Ramsay: This item is statutory, therefore it requires no vote, but is there an opportunity to discuss the program?

Mr. Chairman: Yes, by all means; go ahead.

Mr. Ramsay: I wish to ask the minister if there is any intention in his government to raise the level of the loan to the farmer from 60 per cent to the previous 75 per cent level?

Hon. Mr. Riddell: We have been giving considerable thought to raising the level to 75 per cent, as it was at one time before it was lowered to 60 per cent. I am fairly optimistic that program will come into effect.

Mr. Ramsay: Thank you.

Mr. Stevenson: Would this increase in funding be associated with it?

Hon. Mr. Riddell: It may or may not require an increase in funding. This year is one example of a period in which we did not spend what was available, therefore we asked all the municipalities to go ahead with debenturing all those who indicated they wanted to install tile. It may well be we have reached the stage where there is going to be less and less tile put in the ground and it may be possible for us to increase the loan to 75 per cent without having to put in very much more funding.

Mr. Chairman: Are there any other questions on the nonvoting items? I do not want to rush you. If not, we will move on.

Mr. G. I. Miller: I would like to ask one further question. On the tile drains, would the minister suggest the expenditure has been down perhaps because of the economy?

Hon. Mr. Riddell: Yes, I think farmers are holding back a bit because they are not getting the price for their commodities and are not prepared to spend money on tiling land if they can get away without it.

However, we have reached the point in some areas of the province where there is sufficient tile in the ground. Maybe Mr. McGuigan can correct me, but in southwestern Ontario I believe they are now starting to install tile between tile between tile. There is a question as to how necessary this is, but in some parts of Ontario we have sufficient tile in the ground; at least, I would like to think we have.

There are those places in eastern Ontario which have been behind southwestern Ontario in tiling land. If commodity prices ever improve, you will probably see them tiling more land than they have in the past. In northern Ontario, we have had a program to assist farmers not only to tile but clear land.

We have enough cleared in northern Ontario at this time. Some of the land that has been cleared is sitting idle, so we are taking a very close look

at that program. If commodity prices ever improve to the point where northern Ontario farmers can see some light at the end of the tunnel, I am sure there will be continuing drainage programs in that part; but in many areas of southwestern Ontario you will find a lot of the land is very adequately tiled and we may see less of it.

Mr. McGuigan: When driving around Kent and Elgin counties it is surprising to see quite a few outfits working. Whether these are second and third generation tiles, I am not too sure. If you drive around, you see there are quite a few machines working.

Hon. Mr. Riddell: John Johnston is far more familiar with the drainage program than I am, so he may wish to comment.

Mr. J. R. Johnston: The indications are that tiling is dropping off in the southwest. In Kent county it has dropped off about 30 per cent over the last five years. At the same time, in places such as Frontenac it has doubled. There is some shifting of the funding and the activity from the southwest to the east and north.

Mr. G. I. Miller: Is any of this money used for open drainage? Is it strictly for tile drainage?

Mr. J. R. Johnston: None of the funds under the Tile Drainage Act is for open drainage. It is only for tile.

Mr. G. I. Miller: Only for tile. Some parts of Ontario, my area for one, could use the equivalent in open drainage ditching. Do you ever consider expanding it to encourage and give some assistance to cleaning out main waterways and open drainage so that we would have good outlets? I do not know whether eastern Ontario utilizes that program, but I would be interested to hear from somebody from that part of Ontario. Open drainage could be utilized in Haldimand county, yet there is no encouragement for that. It would be a lot more productive and useful.

Mr. J. R. Johnston: I am not sure if you are referring to what we call surface drainage of fields or construction of outlets.

Mr. G. I. Miller: Surface drainage of fields; that is cleaning out the main waterways. In most parts it is a matter of moving some of the material into a low spot to get natural surface drainage. You cannot work a field that has a waterhole in it in the spring. You have to have that water properly drained off to get access. This year was an exceptional spring and consequently the crops went in early.

The secret to success in many areas of Ontario is to get proper surface drainage. The emphasis

has all been put on tile and nothing on the surface drainage.

Mr. J. R. Johnston: We do not have any programs for assisting in the financing of surface drainage. Most of the surface drainage practised in Ontario consists of land levelling where the land is planed or graded, either flat so the water can seep into the tile, or on a grade so it will flow towards an open ditch to take it away. So far we have not had any program to assist or encourage that sort of activity.

Dr. Rennie: May I add to what Mr. Johnston said? It might be of interest that we are in our second year of experimentation at our Alfred College of Agriculture and Food Technology on the type of thing that John just talked about, on surface drainage combined with tile drainage. Because of the soil type in that part of Ontario, the normal tile drainage system does not necessarily work as well as it does in other areas.

We are experimenting with the effectiveness and cost-effectiveness of the land levelling that Mr. Johnston referred to, as well as planning for drainage, tile drainage, and certain treatment of the drainage tiles themselves to see if it is cost-effective. We are not yet in a position to comment on that; we expect it will be another couple of years before we have a good figure on it.

Hon. Mr. Riddell: I believe, Dr. Rennie, there is considerable surface drainage work done in northern Ontario. As a matter of fact, when I was up to open the new research station they showed me the equipment they are using for surface drainage. I trust there is funding available under the AgriNorth program for that type of surface drainage.

9 p.m.

Dr. Rennie: I cannot answer that; I am not sure.

Mr. J. R. Johnston: There is no funding available.

Hon. Mr. Riddell: I have had mixed reactions about that type of drainage. Some farmers say it is a crime these big gullies are being trenched out through fields to drain the water and that it is causing more damage than good. I suppose that is something we shall do more work on with our research station up there.

Mr. Chairman: Mr. Smith and then Mr. Villeneuve.

Mr. D. W. Smith: It was not a question on tile drainage; I do not know whether we are still on tile drainage or not.

Mr. Villeneuve: Mine is a comment to Mr. Miller's remark about eastern Ontario and open drains. You will recall that \$40 million was set aside by a previous administration under the former eastern Ontario subsidiary agreement, which was oriented towards the continuation of this type of arrangement—an arrangement between the federal people and Ontario whereby two thirds of open municipal drains were being funded.

Working paper 40, which I was very glad the minister commented on, was published at the end of July; but it was done by some professors who really did not know a great deal about eastern Ontario. This working paper possibly was done from quite a distance—from Toronto, perhaps.

It studied about 60 drains that had been approved under the eastern Ontario subsidiary agreement. Seven of those drains that were studied were never funded under EOSA, and working paper 40 was a very critical paper pertaining to cost benefits, effectively telling both governments at senior levels they were throwing money away by improving drainage outlets.

I want to be reasonably kind; it was the kind of paper that I did not appreciate because it did not talk about the positive things that drainage has done for eastern Ontario, especially for the 11 easternmost counties of this province. We are in the area that is considered fringe, the 2,500 heat unit area, and if we do not get the water out of the land and get the soil warmed up in the spring we cannot grow those crops that are traditional to other parts of Ontario.

There were many positive things done by better tile drainage outlets, but working paper 40 did not touch on anything positive. It was basically negative all the way through. I feel very sad that such a paper would be published. I am pleased the minister saw fit to comment on it and to bring to the fore the fact positive things about drainage should also have been addressed. I know both sides exist.

Hon. Mr. Riddell: I could not agree with you more, Mr. Villeneuve. That report was literally full of erroneous information. For that reason I sent a very strong letter to the federal Minister of Agriculture asking that the report be withdrawn. We were very concerned about the list of errors, which was forwarded to the minister along with the request. We felt the report should not be made any more public than it was.

Also, our ministry is preparing a report that will contain a detailed review of EOSA-funded drainage projects. As far as we are concerned,

the Environment Canada report was merely an overview. If ever there was a time when I was thoroughly disgusted with anything, it was when that report came out. I could probably spend 15 or 20 minutes telling you the kind of erroneous information, some of which you have alluded to, that was contained in that report.

I do not think I have received other than an acknowledgement from the federal minister up to this time. I do not know what has happened to the report. I am not up to date, but has anything happened to the report since we asked that it be withdrawn?

Mr. J. R. Johnston: To the best of my knowledge the report is still in circulation and nothing has changed.

Mr. Villeneuve: As a further comment on that, I do not think it is possible to have a report withdrawn that has been widely circulated. It is out there.

I must tell you of an experience I had last night. I was asked to replace Mr. Timbrell at a seminar at Queen's University. It was pertaining to wetlands and was attended by conservationists. That report was put under my nose. I had my copy in the briefcase and I commented on behalf of agriculture and the farmers.

However, the perception out there now is that this is gospel and both governments at senior levels have literally been throwing money away and using the pretence of drainage. We in this room know—I know the minister does and I do as well—that is not true. We have to undo some of the wrongs that have been done by working paper 40.

Hon. Mr. Riddell: I could not agree with you more.

Mr. Chairman: Are there any other comments before we move on to the vote we just passed?

Mr. Ramsay: I suppose this is working paper 40. I refrained from bringing it up because it involves the Drainage Act which was under a previous vote. I also have a follow-up work paper that had addressed all the criticisms of OMAF from the lands directorate of Environment Canada.

The debate on that is probably going to continue. I am not sure it is an open-and-shut case. To a farmer, obviously, drainage is a very important factor in producing crops. We must get the water out of the land. However, to ignore the cost-effectiveness of a project, especially in this day and age of the shrinking availability of

dollars, to us as government people is totally irresponsible and we have to look at that.

I know we like to service and put money into our areas, and agriculture deserves money as much as any industry does, but we have to take a look at this and not duck our heads in the sand on it. Some valid concerns have been brought up and the debate will continue.

Drainage is a good thing, but as I mentioned without bringing up working paper 40, there are some improvements we could make in municipal drainage that may address some of these concerns. I am very glad the minister suggested the time is right for a select committee on drainage. I am not sure when we could do that with our busy agenda but I appreciate the offer. It may have to be late next spring or even next fall, but we should be looking at it.

I would not say that all the criticisms in that working paper are invalid, but I would rather not make any stronger point than that now. People are openly looking at drainage and there could be improvements.

Mr. D. W. Smith: I want to know what the \$30,475,000 special warrant would go towards. Of whom would I ask that question?

Mr. Chairman: The minister.

Hon. Mr. Riddell: I think this was discussed before, but as Rita was so kind as to give up her evening we will have her come up and we will go over this once again.

Mrs. Burak: I am sorry, Mr. Smith, to which figure were you referring?

Mr. D. W. Smith: The \$30,475,000 special warrant.

Mrs. Burak: Are we on the very first page?

Mr. Chairman: Vote 2103, page R18, if you have the same estimates book we do.

9:10 p.m.

Mrs. Burak: I do, sir, yes.

Mr. Chairman: After the main votes and the statutory votes there is the total for agricultural technology, and then "Less: special warrant" of \$30 million.

Mrs. Burak: As was explained the other evening, the amount under special warrant was provided under that device while the House was not in session and no supply bill could be introduced for the Legislature to approve the expenditure of funds. Every ministry of government had to make an estimate of the amount of money it would have to flow during the period when the House was not in session. That is the amount for those votes. Strictly speaking, you

are not voting on that amount this evening, although that amount is included in the totals above.

Mr. D. W. Smith: Therefore, it has already been spent through the different categories above, whether they are statutory or whether they are in items 1 through 8?

Mrs. Burak: It would not be statutory; it would be a nonstatutory item. It was an estimate we made in the spring when the Legislature was not in session. We had to make an estimate of actual cash requirements on a three-month basis. Based on previous years' expenditures for those same months we made the estimates.

Mr. Chairman: The reason the Legislature was not in session is the same reason you are here.

Mr. D. W. Smith: Could be.

Mrs. Burak: That is right.

Mr. Chairman: Mr. Smith, are you okay on that?

Mr. D. W. Smith: Yes, we will let it go.

Mr. Villeneuve: It is only \$30 million.

Mr. Chairman: Mr. Smith has every right to raise that question. No one is here for every single item in every single vote.

Mr. D. W. Smith: I was trying to get them to pin it down but it is very hard to get them to pin it down to one area or one category. Anyway, we keep trying.

Mr. Ramsay: I am very pleased with that elucidation, because I thought it was probably the minister's expense allowance or something. I took it for granted.

Mr. Chairman: It is the same reason Mr. Ramsay is here. Are there any other questions on vote 2103, statutory or otherwise?

Vote 2103 agreed to.

On vote 2104, financial assistance to agricultural program; item 1, foodland preservation policy:

Mr. Chairman: There is a supplementary estimate of \$30 million for item 3 of vote 2104. May I assume that when we get to item 3 we will include the supplementary estimates? All right.

Are there any questions or comments?

Mr. Stevenson: I would like to make some comments on the food land preservation area.

As the minister is no doubt aware, in the attempts to reduce rural severances and deal with the problems of harassment of farmers by people involved in nonagricultural uses of land in agricultural areas—I suppose the nonagricultural people would say harassment of them by

agricultural practices—there has been a gradual increase in the difficulty of getting nonagricultural use in primary agricultural areas. In general, that has been quite favourably received.

In the attempts to paint the whole province with the same brush, however, there are situations where, depending on one's interpretation, the type of system one might develop for central and southwestern Ontario may well be viewed as somewhat too stringent for eastern and northern Ontario, or parts of eastern and northern Ontario, at least.

I am aware of a recent meeting you had with representatives from South Fredericksburgh. Unfortunately, the member for Prince Edward-Lennox (Mr. Taylor) could not be here this evening. He was here last week but we did not get to this vote in time for him to speak. Maybe Mr. Villeneuve will wish to speak later.

There are municipalities and farm groups in eastern and parts of northern Ontario that feel that the gradual moves to tougher enforcement of the food land preservation policy may well not be in the best interests of the farmers or the municipalities in those areas.

There is a situation in the municipality of South Fredericksburgh, which has had reasonably stringent controls on severances. The township has amazingly few miles of road through it. If I remember the numbers, there is a provincial highway, one county road and something like 15 miles of township road that exist there. The former council felt, and I have received no information to suggest that the new council feels any differently, that the ministry is going too far in controlling severances in that township.

I gather the farmers there not only feel the ministry is too harsh on them but that the township has been far too restrictive. I gather there would be no problem getting the signatures of, if not every farmer then, virtually every farmer in the municipality, to support a somewhat relaxed severance policy.

In the last two or three years, I have not attended discussions in directors' meetings of the Ontario Federation of Agriculture but prior to that when I was in regular attendance at those meetings, the feelings of the county groups from, primarily, western Ontario were quite clear and pretty much in line with the policy of the ministry in recent years.

As soon as they were done talking, we would have a string of people from eastern Ontario coming to the microphone saying very clearly that they had property or portions of farms of

minimal agricultural use, be they shallow soils, rock or forested area, and they might well have a house on them rather than them producing little or nothing.

9:20 p.m.

Hence, the arguments in the Ontario Federation of Agriculture used to go on hot and long, regarding the proper policy for agricultural land use across the province.

I still ask myself whether a policy designed for a very intensive agricultural area—found primarily in southwestern Ontario, but to a fairly large extent in central Ontario—is the proper land-use policy for portions of eastern Ontario. The situation in South Fredericksburgh brings it into focus, but I understand the situation there is not new and certainly not isolated to that municipality.

How much flexibility does the minister expect to allow in areas where agricultural practices will never be as intensive as they are in central and southwestern Ontario? Will the municipalities and farmers be allowed any flexibility in areas of somewhat more disperse agricultural practices?

Hon. Mr. Riddell: We met with the South Fredericksburgh council, as I trust the honourable member who is raising these questions did. I indicated to them what our policy was: we would continue to object to any policy which permitted nonfarm severances in good agricultural areas.

We suggested they take a look at those parts of the township where there was submarginal land. There is one corner of the township where development could take place because it is land which does not fall into the categories of class 1, 2 or 3. They say they cannot develop that land because a lot of it is swamp, and where it is not swamp, there is a large farm or series of farms. Is it Hay Bay Farms?

Mr. Stevenson: Yes.

Hon. Mr. Riddell: They did not want any kind of development taking place where there could be the smell of pig manure and what have you.

I asked them if there was any way they could look at expanding some of the towns and villages in the area, rather than going across the township and eventually having ribbon development. If they were allowed to do as they wanted, they would use their land to develop here and there. The first thing you know you have ribbon development.

That may be what happened years ago, before we had such things as official plans and food land guidelines. Look at what we did to the Niagara

area, land that should have been protected from any kind of development. My God, what did we do? We ran the Queen Elizabeth Way and all the access roads through there. If you travel from Niagara to Toronto, take a look at what we have done to those good fruit lands in the Niagara area, simply because we refused to plan.

If we had had official plans and our food land guidelines at that time, chances are we would have constructed the Queen Elizabeth Way above the escarpment and not where it is now. We continue to make mistakes by saying to a township, "Go ahead, develop wherever you want to develop." I have a feeling that some day we are going to require all the good agricultural land that we have at present.

We are going through tough times now. We do not know what to do with a lot of the food we are producing, but that is not going to last forever. It would be a terrible mistake and a terrible legacy to leave to future generations of people if we allowed this good agricultural land to be developed for purposes other than agriculture.

I was very frank with them. I told them that our food land guidelines were constructed to preserve the good agricultural land wherever possible, and that they should be looking at more submarginal land in the township for development. They have it in that township. We should not allow development on classes 1, 2 and 3 lands.

We are not that naïve to say we are going to stop all growth. I am revising both the food land guidelines and the agricultural code of practice. We are not so inflexible that we try to stop any kind of growth in connection with our cities and towns. But we have to protect our good lands, no matter where they are found.

In this province, we are somewhat more flexible when it comes to preserving agricultural land in northern Ontario. We have been quite flexible in the past as far as the preservation of agricultural land in eastern Ontario is concerned. The farmers in eastern Ontario would consider it an insult if we said to them, "Your land is not as good as that we have in western Ontario, so you go ahead and develop the land however you see fit."

We have good land in eastern Ontario, just as good as the land in southwestern Ontario. There is good land in South Fredericksburgh. I refuse to give them carte blanche to go ahead and construct whatever they want on whatever kind of land they may have in that township.

Mr. Stevenson: I appreciate the minister's words but, with respect, he did not respond to my

question. The question did not relate to classes 1, 2 and 3 lands. The question related to 4-plus or 5-plus lands.

In many cases, I am not talking about all of eastern Ontario, but about the parts of eastern Ontario where the areas of good land are somewhat more separated and dispersed. There are many areas of farm land where a significant portion of each farm—20 per cent, 30 per cent, 50 per cent, you name it—will not be prime agricultural land.

There may be a situation where a farmer will have 10 acres on a corner of a farm which is shallow soil or is not of significant agricultural value to that farming operation, whatever the reason may be. That is the sort of land I am talking about. I am not talking about the Niagara fruit land and so on and I do not argue with your comments about that.

9:30 p.m.

We are talking about taking the snapshot in time today. We are talking about land that is not of significant agricultural value under agricultural economic conditions today or in the future. Are we going to show flexibility?

Again, I would address the situation in some parts of eastern Ontario where building lots are not terribly available and the growth rates in population are very low. Very few lots a year—in many cases, I suspect they are talking about maybe one or two lots a year in a municipality—might be required to provide a home for an ageing couple. Are we going to give those municipalities this sort of flexibility to put houses on that poorer class of land? That was my question and, with respect, you did not address it.

As for your comments on the changes in the food land guidelines and the Agricultural Code of Practice requirements, I am very much aware that those are under review. They were largely ready for public scrutiny at the time I left there. I am aware that those things are going on and have been going on.

Hon. Mr. Riddell: We will encourage any development of land for nonagricultural purposes on the submarginal areas of the province. I indicated that to the South Fredericksburgh council when they were in. If you want to take the submarginal land that you have in your township and develop it, that is fine. Go ahead. Nobody is going to stop you. However, they were talking about good agricultural land and you are talking about allowing severances of 10 acres off agricultural land.

That is the type of thing that has been leading to the harassment our farmers have been subjected to. These people take one- or two- or 10-acre plots of land. They construct a home and then they start complaining about the smell of the manure, the tractors operating at midnight and the corn dryers droning all night long. With good planning and good preservation of agricultural land and good food land guidelines, we feel we can put a stop to that.

We have no objections to development taking place on what you refer to as submarginal land. As far as South Fredericksburgh is concerned—and maybe Keith Pinder can elaborate on this—there is far more class 1, 2 and 3 land in that township than there is submarginal land. A lot of the submarginal land is up in the one corner where Hay Bay Farms is located, which is where I would like to see development take place, if it is going to be developed at all for reasons other than agriculture.

The council wanted permission to be able to allow severances throughout the whole township, regardless of whether it was class 2 or 3 land. This is where I disagreed with them. I did not care whether it was class 2 and 3 land in eastern, northern or southwestern Ontario. It is our job to try to preserve that land and to encourage development in submarginal areas. There are all kinds of submarginal land. I do not care what township you are talking about, you are going to find some submarginal land. This is where they should be developing.

Keith, would you like to elaborate further on South Fredericksburgh and either reinforce or disagree with what I have said? Is there not a lot of good land in that township that these people wanted to develop?

Mr. Pinder: Yes, the majority of land in South Fredericksburgh township is good agricultural land and is actively farmed at present. Some marginal land in the northwest corner of the township was discussed when the municipal council came in to meet with the minister. I will clarify that the township was asking for the usual farm help kind of severances, retirement lots for farmers and lots for farm help. We did agree that the township should have those because they are consistent with the food land guidelines policy.

In addition, the township was asking in its official plan for permission to create what it termed nonfarm, rural-residential lots, without any policies that would specify the number of such lots or the circumstances under which they would be granted.

It was those nonfarm, rural-residential lots, scattered throughout the agricultural area, that the ministry staff and later the minister said we were not prepared to go along with. We indicated to the township we would be prepared to go along with it on the marginal land.

Since the minister's meeting with the township, I have gone down and driven around the township. I am satisfied that there are, at least within that area of marginal land, areas that are neither swampy nor close to the Hay Bay Farms units where some nonfarm, rural-residential development could be permitted with no harm to agriculture as far as we are concerned.

Mr. Stevenson: Let us say there is an area where two or three one-acre lots or whatever size lots could be severed off. I am curious. Are you as a ministry prepared to allow a farmer or a land holder or whatever—probably a farmer in many situations—to have two or three severances on that poor agricultural land, or would that have to go ahead as some sort of development to allow that to occur?

Mr. Pinder: I have to answer that question in two ways. Generally speaking, if there is a pocket of marginal agricultural land that is of a reasonable size in nature—by way of example, I would say 100 acres or larger—we have been prepared to go along with the municipality putting that in its official plan in a designation which it might call marginal or rural, but in an official plan designation separate from that in which it has its good agricultural land. The food land guidelines and the guidance my staff give to municipalities are that we will go along with that and are basically quite flexible on whatever severance policies are allowed in that pocket of marginal land.

We do raise concerns if we are talking about, for example, a 10-acre pocket of poor land on the corner of a farm in a good farming area. The issue in dispute between ourselves and municipalities is very often how big a pocket is needed to treat it differently and to keep the rural residential development far enough away from the active farms that we are not causing future problems.

9:40 p.m.

In parts of eastern Ontario, as I am sure you can agree, it is very often a judgement call. If a township has an area that is literally 50 per cent farmable land and 50 per cent marginal land, we have to make a judgement. Do we try to protect all of that area and limit the amount of nonfarm development, or is the area overall poor enough that it is not worth attempting to protect the whole

area? It is largely a judgement call when you have those circumstances.

The food land guidelines policy was drafted with the hope that it could be general enough in application to let us treat those areas according to the quality of the land. The policy encourages municipalities to identify their good farm land, designate it as agricultural, apply protective policies and limit residential severances in the area.

In contrast, the policy also encourages municipalities to identify lands that are truly marginal for agriculture and put them in a separate designation from farming. The policy is quite flexible about what kind of severances are allowed in marginal areas.

Mr. Chairman: Mr. Stevenson, we have to allow the rotation to occur. We have Mr. Johnson, Mr. Ramsay, Mr. Smith, Mr. Villeneuve, Mr. Lupusella on farm land preservation in Dovercourt, and Mr. McGuigan.

Mr. J. M. Johnson: It is my feeling that in my riding many of the problems created by severance occur after the first change of ownership, rather during the second or third. I have often felt that if there was some type of mechanism that could be built in, if there was some process of registration against the title, that the purchaser of the property would recognize the agricultural practice and waive the right to complain or appeal against the practice.

I am not sure if there is such a thing or if you could develop it. There are many instances where a farmer will sever to a son, then the son moves to the city and the property is sold to someone from the city who does not understand the problem and then complains.

In the first instance, when the severance is granted, a registration might be placed against the property saying the people who buy it have to understand it is a farming community and certain things happen. You mentioned that tractors run late at night and farms stink, etc. They would waive the right to lodge a protest against it. Is there any merit in something of that nature?

Hon. Mr. Riddell: I do not know whether that type of thing would stand up in court, but they say an ounce of prevention is worth a pound of cure.

If you did not allow those retirement lots in the first place, then you would not have to worry about what happens to the lot after the retired couple or their son decide they want to move elsewhere. My food land guidelines are going to change, along with the retirement lot severances and the severances for farm help.

Mr. Stevenson said that it is already under review. I appreciate the fact that I may get his support on some of the measures I intend to take in connection with strengthening the food land guidelines. From what he has already said, if these matters were already under review before I got here and they are the same matters I am talking about, then I know I have his support right away. I trust I will have the support of the Conservative party.

Mr. Lupusella: Good luck.

Mr. Stevenson: If you knew my farming operation, you would know you would have my support immediately.

Hon. Mr. Riddell: I appreciate that. I am still reviewing those lots that have already been severed. As a matter of fact, a task force is going to be established soon to look into farmers' right-to-farm legislation.

We are going to have to go that route because I do not think farmers should have to defend their normal farming operations in court, and that is what is happening. In conjunction with my food land guidelines, which I am strengthening, and the revised Agricultural Code of Practice, the task force will be reviewing farmers' right-to-farm legislation, which you may see introduced in the next session of parliament if that is the way we are going to have to go.

We have to take measures to restrict the amount of severances allowed to take place on good farm lands. We have made a mistake in the past by allowing these severances and maybe now is the time to put a stop to some of that. For those severances that have already taken place and for some of the harassment that farmers are being subjected to because of it, it would appear to me that the protection they need will be farmers' right-to-farm legislation.

Mr. Chairman: Does that answer all of your concerns, Mr. Johnson?

Mr. J. M. Johnson: No. In many of the municipalities adjacent to the cities, there are more and more nonfarmers becoming councillors and many of the township councils are being taken over by people who do not have the farm interests at heart. This creates a problem for many and we are going to have address that in the future.

This is slightly off the topic, but I am darned if I can find it in your estimates. I will take only a minute, so do not get alarmed. I want to ask you one question pertaining to the farm vacation program. You people call it the vacation farm program.

Originally, it was in the Ministry of Agriculture and Food, and you did support it for several years, but it has never really developed its full potential. I have always felt it should be in the Ministry of Tourism and Recreation. I am sure John Eakins would be very pleased to have it because he has been extremely supportive of the program. I feel the ministry promoting tourism is the ministry that should be handling this program. It is counter-productive for the Ministry of Agriculture and Food to be engaged in an occupation other than agriculture.

For those reasons, I would like to submit to you that the program is not nearly up to the potential it could be for this province. Prince Edward Island leads us with a very small fraction of our population. We have something like 80 homes in all of Ontario. We should have 800. I do not want to ask you a lot of questions about it tonight, but I suggest that possibly you could discuss it with the Minister of Tourism and Recreation and see whether there could be some arrangement made so the ministry could better promote this tourist activity.

Hon. Mr. Riddell: I would like Dr. Rennie to comment on that farm vacation program. We feel it has been very successful under the jurisdiction of the Ministry of Agriculture and Food. I do not know why you want to change horses in mid-stream. However, maybe there is a good reason for turning it over to tourism. Would you like to comment, Dr. Rennie?

Dr. Rennie: We have been working very closely with the Ministry of Tourism and Recreation on that. The brochure we print in co-operation with the association is handled by and distributed to most, if not all, of their tourism outlets, which is excellent.

9:50 p.m.

Regarding your point that we cannot have shared responsibility, that it looks bad if we are promoting another occupation, I do not feel quite the same as you do on that one. Our staff in the rural organizations and services branch work very closely with and support that association a great deal. We have supported it financially in several ways, and the close tie between that association and the Ministry of Agriculture and Food is a valid and very good one. If there were things we could do in conjunction with the Ministry of Tourism and Recreation that would promote it further, we would be glad to explore them.

The association is growing as fast as it can. It manages its own affairs. We have been supplying it with a grant on a sliding scale so that it will

become more independent. That was its wish two years ago. The supply-and-demand situation is fairly equal.

It is a little difficult to compare Ontario's situation with Prince Edward Island's. It is quite a different situation with respect to tourism. If you have any good suggestions as to how we can further promote that, we will be glad to entertain them.

Mr. Chairman: Does the member for Wellington-Dufferin-Peel have anything further?

Mr. J. M. Johnson: Just one comment. It is a sliding scale and it has pretty well slid off the scale.

Dr. Rennie: Pretty well.

Mr. J. M. Johnson: I am not being critical of the ministry, because the ministry did come in a few years ago and provide some money, but we have a population of more than 20 million people within a day's drive of Metro, and 80 homes is not a tourist industry. It is totally inadequate for the potential we have.

I want to pursue this topic, as I have for many years. We have a golden opportunity to do something, and all I am asking the minister to do is to work with the Minister of Tourism and Recreation (Mr. Eakins). It can be beneficial to both segments.

Hon. Mr. Riddell: We are always prepared to work with other ministers.

Mr. Stevenson: Mr. Johnson, I have been corresponding with Mr. Eakins on this. I received a reply yesterday to a letter I wrote to him. I will be happy to share that with you.

Mr. Chairman: Thank you both for this contribution to the food land preservation policy.

Mr. Ramsay: I want to comment on something the minister said, because we are losing sight of the issue of food land preservation. At the end of his remarks, the minister mentioned that we need a two-pronged approach. What has been brought up here about farm vacations might be enlarged upon; it could be made into a keystone of the transition program.

We could have a condo-farm exchange program. There are many of us in the country who would like to move into downtown Toronto and get a job, and there may be some naive city people who think they could make a good living out in the country. We could enlarge that and make an even swap. Some of us in the north country would be quite happy with that.

Mr. Chairman: Meanwhile, back at the ranch.

Mr. Ramsay: That is right; meanwhile, back at the ranch.

I was very happy to hear the mention of right-to-farm legislation at the very end of the minister's comments, after all this discussion on food land preservation. I am not sure whether he had some conversion on the road to Halifax in the plane the other week, but I am sure that when I said in my opening remarks that the right-to-farm legislation was very necessary, the minister said the answer would be stricter regulations for food land preservation.

We need a two-pronged approach on this so we get the flexibility that Mr. Stevenson is talking about for different areas of the province that are not as intensively cultivated as others. We need a two-pronged approach; we need right-to-farm legislation and we need tighter food land preservation regulations.

We should freeze the land in the Niagara Peninsula today because it is so precious. We made grave errors because of the lack of planning in the past, as you pointed out, with development of the Queen Elizabeth Way and the strip development that resulted from that. That land is very precious to the province and we need to do something very draconian to preserve that land because we are still losing it and it is very important.

We gripe about these different acres. You mentioned 10 acres, which may be a bit much, but some people are looking at one-acre, two-acre and three-acre severances of class 3, 4 or 5 lands in some of these areas, and yet we lose 2,500 acres of prime land in Brampton. It is those big chunks we are losing, such as the big chunks in Niagara, that are chiselling away the land resources we have in this province, and not the odd one- or two- or half-acre severances in some of those townships that want to have a little bit of increased assessment in their tax rolls.

With better official plans and better planning, we do not have strip development or a house way out on the back concession, because that causes a lot of problems, whether it is postal delivery or school buses. Townships are starting to see that having more houses is not beneficial to the tax roll, that the cost supersedes the increase in assessment.

We need flexibility because the policies that are succinct for southwestern Ontario are not necessarily the best for some areas in eastern or northern Ontario. Flexibility and the right-to-farm legislation as a two-pronged approach might be the way to address this problem.

Hon. Mr. Riddell: That is the reason I have a task force looking at right-to-farm legislation. I indicated to you that with the strengthening of the food land guidelines, and I announced our policy in the House under the new Planning Act, the policy then will be incorporated into the act, which means the municipalities will be obliged to incorporate those guidelines into their planning process more so than they have done before.

I said some townships have done an excellent job of preserving agricultural land. They have utilized our food land guidelines to the fullest. Other townships have not.

I had thought we would go a long way towards preserving our agricultural land after I made the policy statement in the House and it was incorporated in the Planning Act. However, I also indicated I would allow the farm organizations to take a look at the measures I had in mind.

I am pleased to see we have with us tonight Harry Pellissero, the president of the Ontario Federation of Agriculture, along with his cohorts Jack Wilkinson, the second vice-president, Bill Benson, Roger George and Lynn Gurty. I am very interested to see they would take their evening to come in and listen to the debates that are taking place. Welcome, folks.

This task force will be consulting with the people I have just named and will be getting their advice on the type of right-to-farm legislation they feel we should have. As I indicated, for once in a long time we have a government that believes in the consultation process. I do not want to be political—

Interjections.

Mr. Stevenson: There is nothing to hide in an empty barrel, is there?

Mr. Chairman: We are still on the food land preservation item.

Mr. Stevenson: Perhaps the minister will drive and let me spread for a while.

Mr. D. W. Smith: He has been waiting 42 years to do that.

Hon. Mr. Riddell: That is right, and not an ounce of crop grew after all that spreading.

Mr. D. W. Smith: I want to carry on a little. I agree with a lot of the things that different members have said here, and I am not trying to challenge my minister, but he did make the statement about trying to protect this class 1 land, or possibly class 2 land.

I think we may have to challenge cities that expand. In particular I think of three in my own area, Chatham, Wallaceburg and Sarnia. When these cities expand, they take some of the very

best land we have in Ontario, if not in Canada. I am not trying to deny those people their rights, but if we want food land preservation, we are going to have to take the bull by the horns in a lot of cases.

10 p.m.

I am not suggesting we should move everybody to Moosonee and have them come down by train to work in the cities. However, if we do not protect that land, then what is the use of protecting some land that is on more of a fringe area? For example, the city of Sarnia is trying to annex Sarnia township in total. About a mile out from the city boundary is marl land, and there is very little of that type of land in Ontario.

There is more of a problem than just mentioning the townships. I think we have to mention the cities, and if they get their toes stepped on a bit, I do not think it will hurt. The farmers have had more than their toes stepped on over a good number of years; I think they get hammered every now and again, just as you have mentioned. If they make too much noise in the fall or the spring, some of the residents complain.

Possibly I take exception to one thing you have stated, in that perhaps we should slow down the expansion of the cities in the highly productive areas. Perhaps you could work with some of the other ministries in saying that when they are developing their official plans or trying to annex or amalgamate townships, we should have a good, hard look at some of these highly productive areas and not let them get carried away with building houses.

I hope you can take that through to the other ministers with whom you may be involved, the Minister of Housing (Mr. Curling) and the Minister of Municipal Affairs (Mr. Grand-maitre). I think we have to start stepping on a few toes if we want to protect the most valuable land for agricultural production.

Hon. Mr. Riddell: I do not disagree, and I hope I did not imply that the cities should be allowed to grow out into this good agricultural land. I think my comment was that we would be naive if we thought that, for ever and a day, we could just freeze any further development of land around these cities, because there are so many other things you have to take into consideration.

For example, if Hyundai had decided it wanted to establish in a certain area, which was going to mean a tremendous number of jobs, and we had taken a hard line, saying, "No, you are not going to establish in this area because it is good agricultural land," then you know Hyundai

would go into a province where it could become established.

There are so many things you have to take into consideration, but what we can do is try to direct growth away from the good agricultural land and into those parts of the province where there is more marginal land and where they would not be that far removed from the markets.

We have lots of marginal land in this province where they would be relatively close to the population and markets, such as Toronto, Hamilton, London and elsewhere. We have that kind of land, and I think it is our job to try to direct growth there and try to preserve our agricultural land.

However, we cannot be too tunnel-visioned in this whole thing and say, "No, we are simply not going to allow any kind of growth to take place now or for ever," because it would have serious ramifications on other aspects of the economy, as you well know.

Mr. D. W. Smith: I agree that we do not want tunnel vision, but we have to face reality too. It is not very difficult for a company such as Hyundai to truck its production, whether it is cars or trucks or whatever, from point A to point B. If one area is going to lose assessment because its land is too valuable, then I believe it is the government's place to balance that out. It may have to grant more funds to that area if people have to leave their land in agricultural production. However, I think it is the duty of government to do that.

I do not think there is any great problem. I suppose there are lots of people in Lambton who would like to have Hyundai there, but if we want to get it just because we have some good land it wanted, then I am sure one of the government's duties, if we have to remain agriculturally oriented, would be to compensate us if the tax base for that was not as great as the big industry plant, which in this case would be Hyundai.

Hon. Mr. Riddell: The ultimate choice as to where the plant locates, however, rests with the owners of the plant. If they decide that this is the place to locate, regardless of any type of grant we may offer to have them relocate elsewhere, then if we want more manufacturing and more jobs it is something we will have to take a very close look at.

It would be very naïve of us to think that we were going to freeze all development of good agricultural land from here on. We will do our best to direct them to those marginal lands that we have in this province, whether by way of government grants or whatever, but the choice rests with them. If they say, "No, we either stay

here or we go into some other province," then I am not too sure that the strongest argument I could make in cabinet to preserve that agricultural land would fly, because some of our colleagues like to see industrial development and job creation take place.

Mr. D. W. Smith: I agree that, in reality, it is very tough to hold down severances in any one area. That is what it comes right down to. If you do not want tunnel vision, and you have to be flexible, you are going to have to allow a certain number of severances. That is what it is coming down to and I was trying to draw that out.

Mr. Villeneuve: We are going through a great exercise here just to make sure that Canada stays with a cheap food policy for ever. That may be good for the masses but it is exactly what we are doing. We are making sure that farmers are told by Big Brother: "You will not sever here or there. We will not compensate you for not being able to do that and make absolutely sure you listen to it."

We are not asking for carte blanche, and I am sure you have explained that. We are not asking for carte blanche for severances in certain parts of eastern Ontario. We have a lot of good land in eastern Ontario but also we have a great deal of marginal land.

It is ludicrous when Big Brother and employees of OMAF always and perpetually rule against severances out in rural Ontario; it is automatic. I do not understand why because in many instances there is good reason to have one, two or 10 lots out in the country. It is good for absolutely nothing else. It may be in the general area of good land, but the particular area where the severances are to occur is extremely marginal land—shallow, with boulders and probably has a few trees on it. It is a great spot for a house, yet someone says no.

Mr. McGuigan: What about a septic tank?

Mr. Villeneuve: Money can look after these things. If it is that shallow—

Interjection: Bring in the fill.

Mr. Villeneuve: It is a situation that I find totally ludicrous and when my friend Mr. Ramsay says, "We will freeze all severances and listen to Big Brother," that scares me.

Mr. Ramsay: I never said that.

Mr. Villeneuve: You said you would like to freeze all severances.

Mr. Ramsay: With all respect, no, I never said that.

Hon. Mr. Riddell: May I respond?

Mr. Chairman: Let Mr. Villeneuve finish his point and then the minister can respond.

Mr. Villeneuve: The right to farm, of which the member spoke, also makes me nervous in that it puts the farmer on the defensive. What I would like on those deeds that are given out in rural Ontario is a cloud that, under normal farming circumstances, the owner of this property does not have the right to complain against this farm. The food land guidelines will outline that; we have rules and regulations coming out of our ears.

10:10 p.m.

I would like to see a tribunal, such as the Farm Machinery Advisory Board, arbitrate farmers' problems without going into courts of law. The minister knows the Farm Machinery Advisory Board has done an excellent job in arbitrating and negotiating problems that would have wound up in the courts and cost all parties concerned untold amounts of money and probably not solved the problem. Could we not have this type of tribunal?

The right-to-farm legislation puts farmers on the defensive immediately and I do not like that. If someone has a problem against me as a farmer, let him spend the money to come after me. Your spills bill is that kind of legislation; it worries me. As you said, I am glad you listened to the farm lobby if, indeed, this is what they wanted in the spills bill. We now have it. You have mentioned open government and that concerns me.

Are we always going to make sure we are on a cheap food policy?

Hon. Mr. Riddell: Ironically, I am meeting with the Ontario Retail Farm Equipment Dealers' Association and the Ontario Federation of Agriculture tomorrow morning to discuss farm machinery legislation. I am not about to disagree with you that the Farm Machinery Advisory Board has not been working, but if it has been working all that effectively, for the life of me, I do not understand why I am meeting with ORFEDA and OFA tomorrow in connection with farm machinery legislation.

As far as the right to farm and putting the farmer on the defensive are concerned, I think it is the other way around. It gets the farmer off the defensive because now, before that city person starts to harass the farmer to the point it is going to end up in the courts, when that city person knows there is going to be a defence for the farmer against that type of harassment, that city person is going to think twice before he or she continues to complain about the normal practices carried out by the farmer.

Mr. Chairman: Would you allow a supplementary, Mr. Villeneuve, or do you want to pursue this?

Mr. Villeneuve: I know what you are saying about the Farm Machinery Advisory Board. It is basically a buy-back situation. I sat on the board for a while and there is understanding there by those representatives of industry, manufacturers and agriculture. It seemed to be a fairly simple process. Both sides of the cases were heard, from the complainant and whoever else was questioned, and then recommendations were made.

I would suggest that in probably 95 per cent of the situations presented to the farm machinery board, the situations that needed to be arbitrated were settled based upon recommendations.

When you say "right to farm," the farmer has to meet all the criteria, the i's have to be dotted and the t's crossed. If they are not then, according to the framework that is set out, he is in trouble.

Hon. Mr. Riddell: The farmer would be required to carry out normal farming practices. If he decides to spread manure on a day when the wind is going to take it into a residential area, I do not consider that a normal farming practice and I think the farmer has to share some responsibility in this whole matter.

Mr. Villeneuve: That is precisely what worries me; exactly what you have said.

Hon. Mr. Riddell: I hope you are not suggesting that farmers be given the permission to go ahead and carry out whatever practices they want, regardless of the effect it may have on other people. I do not think farmers want that and I am surprised you would suggest they do anything other than carry out normal farming practices.

Mr. Villeneuve: Let us assume harvesting the corn has occurred and there is a manure tank that must be spread and then the corn field must be ploughed. If the wind happens to be in the wrong direction for a week, is this man going to sit there and wait for it to change?

Hon. Mr. Riddell: No, but he could probably spread the manure and incorporate it into the soil just as quickly as possible.

Mr. Villeneuve: I am sure he is doing that.

Hon. Mr. Riddell: Then that is a normal farming practice.

Mr. Stevenson: I wonder how many farmers have the opportunity to pick their weather patterns in a fall such as we have just been through, on what days to spread manure depending upon in which direction the wind might blow that day. Most farmers in the part of the province I am from are bloody lucky to have their manure out, whether they spread it on Sundays or in the

middle of the night or whenever they got it out this fall.

When the weather conditions are such that we have a choice, I am sure most farmers who have any concerns for their neighbours make a very sincere attempt to make sure they are not spreading on a weekend when the neighbour has a barbecue planned or something. It is fine to have these sorts of recommendations, but if you get into a fall such as the one we just went through, even to get the manure out on the field is one thing, to get it worked in is something else; and to think you are going to pick days when the winds are coming from the right direction is almost totally out of the question.

Hon. Mr. Riddell: If it is such a fall that the winds are always coming from the same direction for a week on end, it is a different weather pattern than I ever experienced in my days of farming. I can never recall when the wind continued to blow in the same direction for seven days a week. I may be living in a peculiar part of the province, I do not know.

If the wind continues to blow in the same direction for seven days or 14 days, if the farmer's reservoir is filled to the point where he has to get the manure out of there and spread on the land, then that is a normal farming practice.

Mr. Villeneuve: That is what I am afraid of; that the minute we start outlining precisely what someone somewhere feels is a normal farming practice, this farmer no longer has control over his business. It should remain the way it is now with a cloud on the title. If I choose to live out in the country and I know there is a feedlot, a hog farm or a dairy farm next door, I also know that manure will be spread and it may well be spread on Saturday or Sunday when I choose to have a barbecue. I have to accept that as a normal farming practice unless the guy literally goes right along the fence and does it intentionally.

The minute we schedule that, we put the farmer on the defensive. They will be out there making notes, "When did he break the rule?"

Hon. Mr. Riddell: What are your suggestions with regard to these people who do not know? When you go to live in a country environment, you know that you will smell manure and hear driers operating overnight and tractors operating all hours of the night. What about the person who does not know, the person who feels he wants to get away from the city environment to enjoy the great outdoors he hears so much about? All of a sudden, when he tries to sleep on the first night, a tractor starts buzzing up and down the field right underneath his window.

A very prominent farmer had the Ontario Provincial Police come along and tell him that he had to shut down his corn driers because the people living adjacent to them were complaining about the drone of the corn driers? Why should a farmer have to put up with that?

Mr. Villeneuve: Are the guidelines going to say that he can drone his corn drier all night? How much latitude is he going to be given on these rules that are cast in stone?

Hon. Mr. Riddell: Operating a corn drier all night is a normal farming practice.

Mr. Villeneuve: Sure.

Hon. Mr. Riddell: Where is the dispute?

Mr. Villeneuve: The cloud on this man's title when he acquired his farm would say, "I will not" or "I should not" or "I must not complain because of the normal farming practices occurring." That would be on his title. If he wants to complain, he is bringing forth something, not putting the farmer on the defensive.

Hon. Mr. Riddell: Do you know whether that is possible?

Mr. Villeneuve: I do not know.

Hon. Mr. Riddell: Can you as a farmer get a cloud on title?

Mr. Villeneuve: I would want whoever could complain about me to have a cloud on title that they are buying "subject to," as if it were a hydro easement. And new severances could come in that category. Ontario Hydro can come in and walk across your property because it has the easement. That is a cloud on title.

10:20 p.m.

Hon. Mr. Riddell: It is something I would have to look into. I have heard of clouds on title where you end up with quit claim deeds but I have never heard of establishing a cloud on title that will discourage anybody from complaining about a certain farming practice. This is something with which I am certainly not familiar. If it is a legal procedure and would stand up in the courts, I am prepared to look at it, but I question very much whether it is.

Mr. McGuigan: Mr. Chairman—

Mr. Chairman: Just a minute. There was a supplementary.

Mr. McGuigan: Point of order.

Mr. Chairman: All right; it is a thinly disguised supplementary, I suspect.

Mr. McGuigan: No, it is a point of order. In the interest of sharing time, I have another matter of a cloud on title of a different nature I would

like to bring up. I think the members have had a lot of time.

Mr. Chairman: We have two supplementaries now. Mr. Ramsay, can you be brief with yours? Then we will go to Mr. McGuigan.

Mr. Ramsay: Before I ask a question of the big brother, as the minister has been referred to, I have an objection to Mr. Villeneuve putting words in my mouth. It makes me angry and I wish he had listened to what I said. I did not say a freeze on severances. I said I agreed with Mr. Stevenson that we needed flexibility. I would like to see a number of severances of a small nature in some of the marginal land areas. That is what we need.

However, what I said, and that is where I disagree with the minister, was that if Hyundai said it wanted to be near St. Catharines, before that ever happened, I would have told St. Catharines: "You are a wonderful city but you have to stop. You cannot expand any more." I would be that adamant because that is the most precious land we have in this province. I would be strict there but I would be looser in other areas where we could have development and the land was not as special as in that area. That is the point I was making, that we should have flexibility in some of the areas.

It is the same shortsightedness those planners who built the Queen Elizabeth Way had. "It is not so bad. We will put it down there." If we have any more expansion in that area we are going to be doing the same thing and eventually we will not have any land left. We have to be thinking of our children and grandchildren. We have to preserve that land. That is all I am saying. I am not saying that is so right across the board. I think there are areas where we can expand.

Hon. Mr. Riddell: I do not disagree. I would like to think we could preserve our food land for ever and a day, but what if Hyundai had the one location in mind—

Mr. McGuigan: We have covered the same ground three or four times.

Hon. Mr. Riddell: If Hyundai had one location in mind, which was just out of St. Catharines, and if we refused to allow it to locate there and it moved into Quebec, what would your comments be then?

Mr. Ramsay: It is not the only place in the province. If you had an agricultural policy and an industrial strategy, there would be areas that would be well serviced and ready to go for factories such as that.

Hon. Mr. Riddell: That is fine, if we could direct them to another place in the province, but that is their choice to make. If they are not going to be directed to another place, do we just turn a blind eye to having a large manufacturing plant locate here or do we simply take a firm stand that, "No, you are not going to develop in the St. Catharines area"? If that means they go into Manitoba or Quebec—

Mr. Ramsay: In the long-range value of what we would be getting out of it, that land is special and we have to preserve it. If the zoning were properly in place, a company such as that would not even want to tackle it, and the changes that would have to go through the Ontario Municipal Board.

Mr. McGuigan: Mr. Chairman, on a point of order, we have been over this now about four times.

Mr. Chairman: Just a minute, Mr. McGuigan. Are you finished with your supplementary, Mr. Ramsay?

Mr. Ramsay: Yes.

Mr. Chairman: Mr. McGuigan, go ahead with your supplementary.

Mr. Ramsay: We could take all night. I understand.

Hon. Mr. Riddell: I am probably on the same wavelength. I am a great believer in preserving agricultural land wherever we can. The point I am making is that we cannot be so naïve as to think that all growth is going to be frozen around these places for ever and a day. I just do not believe that, but we can certainly limit the kind of development by strengthening the guidelines and limiting the time over which these cities can plan.

Having them plan on a 25-year basis is and has been ridiculous. To have them plan on the basis that a sewer line happened to be installed through that area, what I call planning by sewer line, is also as ludicrous as planning over a 25-year, a 30-year or a 50-year period. These are things I am going to address in the new Food Land Guidelines.

Mr. McGuigan: I want to bring up a point on severances where there is a cloud on the title. The cloud is that the title is held by the banks and a lot of other people are clamping down because of the unfortunate world market situation, where a number of farmers are going bankrupt.

I had a case in Kent county this summer that illustrates this. There was a large farm operation which was well run by one of the best crop-raising people that I know of, who got caught by the high interest rates and low

commodity prices and all of this sort of thing. He had to give up farming. As part of the deal, it would appear—and I cannot be certain of this—that the bank allowed him to keep his home at a reasonable cost. They probably put a value on the house, perhaps 50 per cent of the price that the home would fetch on the open market.

Can we get a severance on these homes for farmers who are not at retirement age but, nevertheless, are retiring from farming involuntarily? The severance committee allowed it not to sever the house and the shop from the farm, but to sever the farm from the house and shop. It left these two people with the home they had built and raised their family in and the shop they needed for their new endeavours, which were mechanical. Farmers are very good as truckers and backhoe operators.

Mr. Chairman: Mr. McGuigan, the next person on the list is Mr. Lupusella, who agreed to let you have a supplementary, which is just fine. Is there a precise question?

Mr. McGuigan: Yes. This is really an area of compassion, and we are going to see more of it, I believe. The precise question is, in your review, will you take into consideration these people who are being forced out of agriculture and who would like to maintain their family home and probably their shop and a little bit of ground for their tractor, truck or business?

Hon. Mr. Riddell: The task force is going to be reviewing all of this. They will also review the points that Mr. Villeneuve raised. Is there such a thing as a legal cloud on title? I have heard of a cloud on title being removed, but I have never heard of putting a cloud on title in order to protect the farmers. That is something the task force is going to review.

As far as your question is concerned, if the bank is going to take a loss anyway, I would prefer that the bank say to the person, "We are prepared to send you away from the farm with sufficient money to relocate, rather than have to sever that house and shed from the land." I worry about severing a small parcel of land, including the house and the shed, from farm land. I would prefer that it not occur. Perhaps we are going to have to look at it.

Mr. Pinder or Mr. Ediger, do you want to comment on that?

Mr. Chairman: Could you do that fairly quickly because we have one more questioner before adjournment.

Mr. Pinder: Yes. Just briefly. That is something we can take a look at. This is also

where a local land division committee who actually makes the decision can apply compassion. It is awfully hard for provincial staff to do that.

The case you mention is one where we raised concerns based on the policy but the land division committee approved the consent anyway. We chose in that case not to appeal or pursue it any further.

Mr. Lupusella: I appreciate your indulgence. Tomorrow I will be extremely busy and cannot be here, I have other commitments. I am not here because I feel I am an expert on farming problems, farmers, and so on. I am a bit disturbed about the comments which have been made by the Conservatives. For 42 years they had the opportunity to protect our food lands, yet they were unable to create an important agricultural infrastructure which, today in the 20th century, would have greatly benefited the public of Ontario.

The reason I am here is I understand that all these problems that have been raised in parliament and in committee will eventually be dealt with by the task force you appointed. I know how belligerent you were on the opposition bench in relation to issues that—I am extremely convinced—you believed and fought for. Through the years, as long as you are minister and your party is in power, I hope you will not be thwarted by the bureaucracy which has been operating in Ontario for the past 42 years.

I am here because of two issues, and not because I would like to preserve food land in the area of Dovercourt. I am extremely disturbed about the problems the food land is causing the public of this province and in my constituency in relation to issues such as polychlorinated biphenyls in fruit, meat and other material for human consumption. I understand your position is that you are monitoring the situation.

The other problem I am disturbed about is the lack of infrastructure and opportunities given to farmers by the Conservative government in 42 years. We are now noticing the negative effects. I would like to expand a little on those two points.

The first point is the PCB issue. I am a little disturbed about your way of measuring the percentage of PCBs in fruits, meat and other items for human consumption, because we do not have guidelines at present, either at the federal or provincial level. You still tolerate a certain percentage which will not cause any health hazard to people.

I would like to warn you that if it is the poisoning aspect threatening human life, there is

no percentage which can be tolerated by you and your ministry. The main goal is to fight back and make sure that food for human consumption is pure. If you add up the percentages of PCBs in meat, fruit, vegetables, in the water we drink from Lake Ontario and the percentage which exists within the environment, the total is a threat to human life in Ontario. You cannot isolate the percentages item by item, but I think your guidelines are to ensure that we sum up all the percentages existing around human beings throughout Ontario.

Mr. Barlow: On a point of order—

Mr. Chairman: Before the points of order which I can feel coming begin—I can feel it in my bones—the committee can only sit beyond 10:30 with the unanimous consent of the members.

Mr. Lupusella: I am sure we will be just a few minutes.

Mr. Chairman: If that is the wish of the committee, fine; otherwise, we will have to pursue this matter tomorrow morning.

Mr. Lupusella: May I have the consent of the committee? Three minutes and I—

Mr. Barlow: I do not know about the rest of the committee, but I am going home.

Mr. Stevenson: Mr. Ramsay had foresight that some of the rest of us did not have.

Mr. Chairman: I do not detect a consensus. It does require unanimous consent of the committee.

Mr. Lupusella: Thank you, Mr. Chairman.

Hon. Mr. Riddell: He was doing such a wonderful job of talking about the previous administration, I would not mind him carrying on.

Mr. Chairman: I understand that, but we cannot be partisan in the chair.

I am sure the minister will respond tomorrow morning to the comments you have made so far, Mr. Lupusella, and we will stand adjourned until tomorrow morning at 10 a.m.

The committee adjourned at 10:35 p.m.

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 Lupusella, A. (Dovercourt NDP)
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 Miller, G. I. (Haldimand-Norfolk L)
 Ramsay, D., Vice-Chairman (Timiskaming NDP)
 Riddell, Hon. J. K., Minister of Agriculture and Food (Huron-Middlesex L)
 Smith, D. W. (Lambton L)
 Stevenson, K. R. (Durham-York PC)
 Villeneuve, N. (Stormont, Dundas and Glengarry PC)

From the Ministry of Agriculture and Food:

Burak, R., Assistant Deputy Minister, Finance and Administration
 Ediger, H., Executive Director, Food Land Preservation and Financial Programs
 Henry, Dr. J. N., Director, Veterinary Laboratory Services
 Hoag, N. W., Director, Agricultural Representatives Branch
 Johnston, J. R., Drainage and Water Management, Soil and Water Management Branch
 Pettit, Dr. J., Director, Animal Industry Branch
 Pinder, K. W., Regional Manager, Southwestern and Eastern Ontario, Food Land Preservation Branch
 Rennie, Dr. J. C., Assistant Deputy Minister, Technology and Field Services



No. R-20

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Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development
Estimates, Ministry of Agriculture and Food

First Session, 33rd Parliament
Wednesday, December 4, 1985



Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chairman: Laughren, F. (Nickel Belt NDP)

Vice-Chairman: Ramsay, D. (Timiskaming NDP)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Gordon, J. K. (Sudbury PC)

Hayes, P. (Essex North NDP)

McGuigan, J. F. (Kent-Elgin L)

Rowe, W. E. (Simcoe Centre PC)

Smith, D. W. (Lambton L)

South, L. (Frontenac-Addington L)

Stevenson, K. R. (Durham-York PC)

Substitution:

Miller, G. I. (Haldimand-Norfolk L) for Mr. Ferraro

Also taking part

Lupusella, A. (Dovercourt NDP)

Riddell, Hon. J. K., Minister of Agriculture and Food (Huron-Middlesex L)

Clerk: Arnott, D.

From the Ministry of Agriculture and Food:

Bardecki, N., Director, Farm Assistance Program Branch, and Livestock Commissioner

Burak, R., Assistant Deputy Minister, Finance and Administration

Ediger, H., Executive Director, Food Land Preservation and Financial Programs

Switzer, Dr. C. M., Deputy Minister

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, December 4, 1985

The committee met at 10:10 a.m. in room 228.

ESTIMATES, MINISTRY OF AGRICULTURE AND FOOD (continued)

On vote 2104, financial assistance to agriculture program; item 1, foodland preservation policy:

Mr. Chairman: There are two hours and nine minutes left in these estimates, so we should be wrapping it up around 12:20.

When we adjourned, we were on vote 2104, item 1, the food land preservation policy. Is there any further comment on item 1?

Mr. Lupusella: I had the floor and I would like to ask permission to continue my remarks. Late last night I was trying to bring my particular concerns to the attention of the minister. I am glad that I was able to reschedule my time this morning to appear and participate in the discussion of the problems I would like to discuss with the minister.

As a city boy, Mr. Chairman—and I am sure you are not a farmer yourself—I am appearing before this committee because I was disturbed about the polychlorinated biphenyl issue and contamination of food. We can talk about food land preservation, but I think there is something wrong within the infrastructure of farms and Ontario in general when we are faced with this grave and serious problem which is attacking human health. Although I am not addressing myself to the main issue, for the sake of public safety, I think I am not out of order because we cannot have a good policy on food land preservation when we lack an infrastructure which would give us an opportunity to preserve the food land and its products to be safe for human consumption.

I was disturbed by the minister's statement in the Legislature. I know he inherited a lot of problems from the previous administration, and I do not want to stress the bad administration of the previous government. However, it appears he is more or less following, and has been a little brainwashed by, what has been government policy during the past administration in relation to the percentage of contamination which the government tolerated in relation to food in general.

I am disturbed, especially when we are talking about prepared baby food. For example, we know that apples contain a good percentage of PCBs, but we have no guidelines as to what percentage of PCBs can be tolerated by human beings. I am disturbed because the minister takes the issue in isolation, in the sense that through the monitoring system which is now in place, it appears he follows the same road as the previous administration. He says that a certain percentage of contamination in food can be tolerated, because it will not cause any damage to human tissue.

I would like to draw the minister's attention to the fact that when we are talking about food in general, you cannot tolerate any percentage of food contamination, period. I do not think he should have this type of guideline.

The previous administration brainwashed the public by saying, "Well, if the apples are contaminated, the percentage of contamination is safe and it will not cause any harm to people in general." However, if you add that percentage of contamination to that which exists in water, in the environment, and in the pollution in urban areas which comes from industries—such as PCBs in general—we are supporting a principle the result of which is that people might die. It is fine for the government and the ministry to tolerate this type of contamination—in apples for example.

In closing my remarks, I would ask the minister not to follow the procedure of the former administration by having guidelines for the percentage of contamination. I think the main goal, in relation to food, is to make sure any contaminated food will not be on the market across Ontario. This issue cannot be taken in isolation saying that the percentage in an apple will not cause problems for human beings. It has to be taken in context, making sure that the percentage of PCB contamination in water, the pollution coming from industries and the environment are also included.

I have been quite disturbed by the minister's statement. I would like to give him the benefit of the doubt—even though he has been accusing the past administration about the reason it did not have guidelines for the percentage of contamination in food. Perhaps it was because guidelines

should not exist for the contamination of food. Perhaps this is the reason they did not have this type of guideline.

I think that the minister is wrong if he is trying to convince us, or the citizens of Ontario, that a certain percentage of contamination in food is fine. The administration will be wrong. The main goal is to have pure food, period. I will not tolerate remarks about looking for answers in guidelines, in relation to the percentage of contamination which will not cause human problems.

There is another point I would like to bring to your attention.

Hon. Mr. Riddell: Do I have a chance to respond before all these points are made?

Mr. Lupusella: You can carry on if I still have the floor. Yes.

Mr. Chairman: Do you want to let the minister respond now, Mr. Lupusella?

Mr. Lupusella: Yes.

Hon. Mr. Riddell: I share your concerns, Mr. Lupusella. However, with due respect, I have to tell you that you do not know what you are talking about. There are PCBs in this environment. PCB levels have been detected in polar bears in the Arctic. The fact is that we have PCBs in the environment and chances are that all foods are picking up certain levels of PCBs. You cannot suggest to me that I should pull all food off the shelves. That is what you are saying. You are saying that we should not be tolerating any contamination.

Mr. Lupusella: That is your main goal.

10:20 a.m.

Hon. Mr. Riddell: PCBs are in the environment. There are probably certain levels of PCBs in every food we eat. I, as the Minister of Agriculture and Food, am not about to state that all foods should be removed from the shelves because they have a touch of contamination. Humans need food for survival.

We have to establish levels but this is not my job. Our ministry does not have the expertise or the mandate to decide what is a dangerous amount of contamination. This determination requires toxicology study, and is the responsibility of the federal Department of National Health and Welfare to make the determination as to what level we can have in food. I cannot believe someone would suggest we cannot tolerate any level of PCBs whatsoever in our food because it is in the environment that stretches right up to the Arctic.

Experimentation has been done. Rats have been fed PCBs at varying levels. They have died because of the dosage they were fed; on the other hand I learned this morning of experimentation done with humans who were actually working in the plant with PCBs, and they were not able to detect the level in their bodies. That may be an irony: that one can feed them to rats and they are proven to be carcinogenic, yet in experimentation with humans working with PCBs they were unable to detect any level.

I am not trying to minimize the problem. I am saying that our job now is to try to clean up the environment. It is the only way we can go. We cannot remove the food. People need it to survive. But we are testing, we are monitoring. The quality standards division, along with the pesticides laboratory of the ministry, is extensively involved with the monitoring of food for residues, including checks for antibodies in milk on an ongoing regulatory basis, and antibodies in meat on both a regulatory and monitoring basis.

As I indicated in my statement in the House, a monitoring program for PCBs in milk has been established, and 377 tanker loads of milk representing various areas of the province have been sampled since May of 1985. All samples have been well below the Department of National Health and Welfare guidelines of 0.2 parts—I believe that should be per billion instead of per million.

Dr. Switzer: It is 0.2 parts per million, 200 per billion.

Hon. Mr. Riddell: The other day someone told me it was two parts per billion; at any rate these have been well below the range, the range in the results being up to 0.096 parts per million.

Another example of the dual efforts of the two ministry agencies has been the monitoring of farm water for alachlor during the past summer. Where there was any evidence of alachlor in water, subsequent checks were made on livestock and livestock products on the farm to ensure this would pose no problem from a food consumption standpoint.

In the case of fruit and vegetables, samples are monitored on an annual basis for pesticides. This fall the ministry also took action to investigate the possible PCB contamination of Ontario fruit. Apples were selected for the test since they are harvested later in the year and therefore have the greatest exposure period. Samples from various apple-growing areas were tested with the results revealing no evidence of PCBs. These are examples of the ongoing efforts of the ministry to

protect the consumer from harmful residues in food.

In addition to the monitoring that is done, quality and standards personnel quickly investigate any situation where a finding is made by our laboratory which suggests that a possible public health concern exists. This could be a finding made by one of the ministry's veterinary diagnostic laboratories on samples from an animal or animal carcass. Evidence of any untoward situation with respect to the food supply that is observed by ministry field personnel is quickly pursued.

It should be pointed out, and I have already alluded to this, that the official watchdog of consumer protection is the Department of National Health and Welfare with its broad and detailed regulations respecting food standards. The health protection branch of this department has jurisdiction over contaminants and food supply. Not only does it do toxicology tests for PCBs and other chemical contaminants, but it also carries out health hazard assessments in this connection.

The Department of National Health and Welfare, in establishing guideline levels for residues, takes into account the food consumption patterns of the population. In other words, it is recognized that a variety of foods are involved in the average diet of a consumer. The Ministry of Agriculture and Food, the Ministry of Health and the Ministry of the Environment work very closely with the Department of National Health and Welfare on any concern relating to the quality of food or water.

With regard to the concerns raised by Dr. Hallett of Environment Canada, a check made yesterday, I believe with the health protection branch of the Department of National Health and Welfare revealed that they had been monitoring the human diet for a considerable period of time and are satisfied that PCB levels do not pose a health hazard for the general population. The consuming public can be assured that my ministry, in conjunction with other government agencies with a responsibility for food quality assurance, will continue its efforts to ensure that consumers are provided with safe, wholesome food.

The Ministry of the Environment is taking drastic measures to try to reduce the pollutants in our environment; we did not put them there, but we are taking considerable steps to try to reduce them. One example is the spills bill, which we were not long in getting back into circulation after the six or seven years during which the

previous administration was not prepared to bring it forward.

That is one example of what we have done. I gave examples in the House of other measures we have taken, in the four or five months we have been in government, to try to reduce the toxins obviously in our environment, PCBs being one of them. They are being spread throughout the whole continent; they have detected PCBs in polar bears. There is no question our foods contain certain levels of PCBs so it is up to the federal government to decide what levels can be tolerated before causing health problems to human beings. If the levels are above the standards that are set, there is no question we will have to keep that food out of the reach of consumers.

Mr. Lupusella: With respect—

Mr. Chairman: Would you allow a supplementary, Mr. Lupusella?

Mr. Lupusella: I should be tough, but just a short supplementary.

Mr. Barlow: The spills bill was mentioned and I want to ask whether the Ontario Federation of Agriculture is satisfied with the spills bill. There was a major concern in agriculture, as well as in many other industries, about the spills bill—the insurability of it and what the premiums would be. Have you satisfied the needs of the OFA?

Hon. Mr. Riddell: By and large, the OFA agrees with the principles of the bill and what we are trying to do. They are a little concerned that the price of some products, such as the nitrogen they buy to put on the crops in the spring, may suddenly go up in price, because the company feels it is going to be charged much more for the insurance it carries and will pass the cost on to the end user of the product.

I do not believe that will be the case. Rest assured we will be monitoring that type of situation. If we find inordinate prices for products farmers have to buy, we will be getting into the act. As far as farmers are concerned and their being covered by insurance, you will be very surprised when before long I shall be able to indicate how little the insurance is going to cost them.

10:30 a.m.

Mr. Barlow: People are waiting to hear not how little but how much it is going to cost. It is now an unknown factor. I wanted to interject while Mr. Lupusella was getting his breath, to remind you the OFA has a concern, as do many other industries, about the cost. No one is

arguing the principle of the spills bill; it is the cost that is involved.

Mr. Lupusella: I might agree with the minister that maybe I not know what I am talking about, but he also stated that he does not have the expertise at the moment and he relies on information coming from the federal government. I would remind the minister that I was of the opinion as a city boy—actually, I am not a boy any more—that even wine was safe, and it was not. It was contaminated, and your government rightly took the decision not to sell this contaminated wine to the public.

We might have a disagreement about what I have suggested and what I have not suggested, but I would bring to your attention the example of wine. Your government took the wise decision to eliminate wine from the shelves.

The other point I would like you to consider is all the food coming from the United States. You know their record in relation to pollution. I do not think they have a good policy on food land preservation in the United States when they have a terrible record on pollution in general. I question what the federal government and your ministry are going to do to monitor this aspect of food imported from the United States until they clean their environment.

In the final analysis I agree with you that the main objective is to clean up the environment, and your government and the Ministry of the Environment have to deal with it quickly. A mandate was given to them to clean up the environment. The public in general in Ontario is quite sensitive now about environmental problems, and an issue like the contamination of food in Europe might be the signal for a minority government collapse. Here we are quite silent on issues like that affecting citizens and millions of people here in the province and across Canada. I am not blaming you for that.

To go to another topic, we cannot have food land preservation or improve food land preservation if we do not have the right infrastructure in place to make sure this policy, along with the overall policy of your ministry, takes into consideration such concerns about issues affecting inspectors coming from Europe. I had a short chat with you last night about how the meat was handled in Ontario and how it was slaughtered. The inspectors were not impressed and they came out with the statement they are not willing to import meat from Ontario to Europe for hygienic reasons. Our measures for inspecting and handling meat do not reach European standards.

I felt a little upset but, coming from Europe, I know their expectations and their standards as well. As I told you last night in a very informal way, if a person has to handle meat on the market, he must have a government physical attesting that his health is good and he can open a business, because he has to touch food with his hands. Here there is no inspection whatsoever to find out whether the individual might spread diseases that would infect other people.

These inspectors, coming with these thoughts in mind and looking at the way the meat was handled in Ontario, may have been shocked at our system. I would not blame them if they came out with a statement that the hygienic measures in Ontario were not meeting European standards.

I will give you a small example. In Europe, an individual who wants to open a business where he or she has to touch food with the hands must apply for a licence and must have a physical checkup before a mandate to sell food to the public is given. I would like to have a reply regarding how you felt about the statement made by those European inspectors and how you feel about this issue.

Mr. Chairman: Then we will get to food land preservation. I think the committee has been most tolerant.

Mr. Lupusella: Yes, and I have another point which is strictly related to food land preservation.

Hon. Mr. Riddell: We felt we have had adequate inspection for the food, starting from the farm right through to the consumer. I do not know how you can say we should only be requesting certificates of those people who are handling meat. What about the fruits and vegetables you are buying? What about celery? What about the cold crops, the lettuce, the cabbage, all of which are touched by human hands?

I suppose you are suggesting that all of these people working in the food industry should have to pass a medical examination every year and be able to show a certificate. The difference we see in this country compared to some of the countries you are probably referring to is that we still try to keep as many people working out of government circles as we do people working in government circles. This is a country where the government does not employ everyone, which is maybe a little dissimilar to some other countries where the governments are the big employers.

Perhaps George Fleming could come up and talk about our inspection services. Do you see the day when we are going to have to require that all

people working in the food industry—that is, all those people on the assembly lines—have medical certificates? I do not know whether you have ever been in a meat packing plant, but when you consider the number of workers who are handling that product, are you suggesting every one of them should go through a medical examination every year and get a certificate to show that the person is physically fit to work in that job so he or she can show it to the inspector when he comes to check the plant?

Mr. Lupusella: You asked me a question. I think I have a duty to make a short reply. Any measure which will control the situation should be taken for the sake of public safety. Lately, we have heard so much about acquired immune deficiency syndrome and how it is becoming an epidemic here in Canada. Public safety should be a priority when we consider these things, in spite of which country I am referring to.

In my own mind, these types of procedures make sense because public health is at stake if we do not undertake preventive medicine as such. I understand that a lot of people might feel the government gets involved in the way in which their lives are run. You have to understand that when they apply for a licence from the government, they pay their fees, and before the government gives the licence, public safety must be taken into consideration. You may think I am suggesting too many things, but I am telling you to think about public safety and what you are trying to do about it.

Mr. Chairman: I do not know how you did it, Mr. Lupusella, but you brought a discussion of AIDS into food land preservation problems. There are two people who want to make brief comments on this, Mr. Ramsay and then Mr. Stevenson.

10:40 a.m.

Mr. Ramsay: I do not want to make a comment on this. I would like to make a point of order. I have conferred with the Agriculture and Food critic for the Conservative Party and we agree that we should move on because this topic has been given adequate discussion. We feel there are some very good points, and provincial farm assistance is a very serious topic.

Mr. Chairman: Let us stay on the topic of food land preservation. I really think the committee was tolerant.

Mr. Stevenson: I would prefer to move on to the financial assistance section because that is the most critical part remaining. I am prepared to

leave the food land preservation area open and come back to it at the end.

Mr. Chairman: All right, let us do that then.

Mr. Lupusella: On the preservation—

Mr. Chairman: Order, please. We will not carry that food land preservation vote because we may want to come back to it. We will move on.

On item 2, financial assistance policy:

Mr. Stevenson: I would like to ask some questions on crop insurance stabilization and the Ontario family farm interest rate reduction program. I will try to share the time fairly with Mr. Ramsay as we go through. I welcome his comments on the subjects as I go along and I will try to utilize fairly evenly whatever time we may need or whatever time is available.

Mr. Ramsay: This is a mini-accord.

Mr. Stevenson: I will not sign anything.

First, I will go over a concern in the crop insurance area very quickly. I note the minister for the first time has made special payments to farmers who were hit by hail. These were payments outside the crop insurance program. I assume that since two major storms in Ontario were covered in the summer of 1985, all major storms in Ontario are going to be covered in 1985.

I would like to relate quickly the situation of Neil Brown of RR 1, Pepperlaw, who lives about three or four miles from me.

A tornado went through the thriving metropolis of Udora this summer. It skipped through there, damaged one house quite extensively and a couple of others in a minor fashion and took a few trees down as it hopped across the country. On the north edge of that storm, approximately half a mile north of the centre of this small tornado, there was a severe hail storm. It was about half a mile wide and approximately six or seven miles long. Fortunately, almost all of it fell in low bushland and caused no significant damage to a lot of farmers, but it did cause major damage to Mr. Brown's farm.

The storm took three windows out of our own house. Our neighbours picked up a five-gallon pail full of hailstones from their stairway, when a window in the second floor was completely destroyed by the hail, and the hail and rain poured into their home.

I should mention that the Friday before the storm, Mr. Ellie Cavanagh, the agricultural representative for Newmarket, visited Mr. Brown's farm and saw the large field of corn—more than 50 acres, if my memory serves me right—and another 44 acres of winter canola.

By the way, winter canola was uninsurable this past year.

The storm went through and cut the yield of winter canola by 75 per cent. It thrashed it right there on the ground. He ended up with a yield of about a quarter of a ton; it probably should have been a ton per acre in yield. The yield of the corn off that large field would be about 55 bushels to the acre in that area this year.

I visited the farm after the hail. Mr. Brown had 3,000 tomato plants set out for a market garden stand and only 30 of them bore fruit. The rest were totally destroyed. Mr. Brown is a young farmer, who started in the late 1970s and is not really in a financial position to absorb much more financial shock. I assume Mr. Brown's case will be given every due consideration since special payments were made to the Leamington area and New Liskeard farmers. He was certainly subjected to a severe storm in our area. Would my assumptions be correct?

Hon. Mr. Riddell: Mr. Ediger will respond.

Mr. Ediger: No. The areas we have agreed to make payments to this year were the two areas you have mentioned. One is New Liskeard and the other is Leamington.

The amount of payment we are making—and I am just giving you this information as background—is relatively small. It was not intended to undermine the crop insurance program. The amount we are paying in the New Liskeard area is \$25 an acre. The amount we are paying in the Leamington area is six per cent of 30 per cent of the value of the uninsurable portion of the crop.

There are suggestions that we are picking some areas over others that have been hit with hail or whatever. There are a lot of crops out in the field today that may not be harvested. We certainly made special cases in these instances. I believe both releases said they were special and would not be repeated.

In the past, in drought assistance in northern Ontario, we have assisted in transportation for hay, even though the crop insurance program was in place. We have also made some kind of assistance available for guaranteed loans in the early 1970s. Those are some of the other assistance programs which we have administered while the crop insurance program was in place.

It is probably not unlike our disaster assistance for tornado damage in the Barrie area or something similar to that. In those cases where a storm is widespread or severe, the government has done something over the years, whereas we

do not do the same thing when an individual farmer loses a barn for one reason or another.

You could say we play favourites, to some extent, when there are bigger storms and smaller storms. That is almost entrenched in our disaster assistance programs, as far as tornado damage and other disasters are concerned. I am giving you a kind of background or backdrop to this. There have been other hail storms that did damage in Ontario this year to a greater or lesser extent for which we have not given assistance.

10:50 a.m.

Mr. Stevenson: I come back to point out this hail storm would have been a major disaster if it had gone through an intensive agricultural area. There is no question about it. Hail solidly covered the ground in all areas. It riddled the leaves in the forest where it went through. I still have some difficulty understanding; I assume some of these farmers who got special consideration still had some harvestable yield off the property.

Mr. Ediger: Yes, some certainly did. For example, the apple crop in Leamington was damaged by hail, but it was not knocked off the trees. So it was basically a juice crop.

Mr. Stevenson: Here we have a farmer whose income is very seriously affected. Unfortunately, he was caught by the edge of a severe storm. I cannot quite see what the difference is between this farmer living in RR 1, Pepperlaw and the farmer living in Leamington or New Liskeard. When intensive storms hit certain parts of Ontario in the summer of 1985, I am not sure why some farmers are fortunate enough to get special treatment and others are not.

Hon. Mr. Riddell: I have to tell you I was hard-pressed to render any assistance outside of crop insurance to either the Essex or the Timiskaming area. I am a firm believer in crop insurance. It is there for a purpose. If the farmers do not capitalize on that program, then I really do not think that we as a government should help them.

When I came to this job, I inherited some commitments. One of my predecessors—and I would have to go back and actually check the date to know which predecessor it was; maybe you could help me—indicated in a statement that there would be hail damage support for Essex. I was actually fulfilling a commitment which was made prior to my time. However, I do not ever recall that same predecessor making a commitment to helping this person to whom you are now referring.

Mr. Stevenson: This person was affected after the predecessor I suspect you are talking about was out of office. Regarding any statement I would have made as far as outside crops were concerned, I would have to check any statements I might have made relating to greenhouses. Certainly, where outside crops are concerned, I would have to see the statements to say that any commitment on my part indicated any coverage for outside crops over and above that of crop insurance.

Hon. Mr. Riddell: I guess the reason we rendered some assistance in Timiskaming is I have known for some time that the northern Ontario farmers have not been satisfied with the crop insurance program. They feel it does not take into consideration the particular climatic factors in northern Ontario. They figure we use a southern Ontario module to establish what they would be eligible for in northern Ontario. They say that is extremely unfair. This is the reason both the federal minister and I set up a task force to look at the application of crop insurance in northern Ontario. We may well have to change it to meet the needs of northern Ontario farmers.

That is one reason I felt assistance outside of crop insurance would warrant some merit in that part of the province because many farmers did not take out crop insurance, thinking it was not fulfilling their needs. Whatever we did, we made sure we did not undermine the existing crop insurance program. I also indicated this was the last time this government would step in and render assistance over and above crop insurance.

At the first ministers' conference in Halifax last week, the subject of a disaster relief fund was discussed around the table. It may well be that the federal government and the provinces will establish such a fund, in which case money would be available for these areas where disaster took place.

Mr. Stevenson: So the answer to Mr. Brown is no.

Hon. Mr. Riddell: I suppose we could have a look at it. I do not rule anything out without pursuing every aspect, but I cannot give you a commitment this morning.

Mr. Ramsay: This is very germane to what Mr. Ediger said. I was very interested because I am having a further problem with the Timiskaming situation in relation to the federal government, but not the provincial government. I am very pleased with the assistance rendered by the provincial government. The federal government had stated the province had to make the first move, and the province has. I want to know the

technicalities behind establishing these regions as disaster areas. You mentioned the words "disaster assistance program."

The federal government has said the area has to be proclaimed—and I do not know the technical word—a disaster area in order for it to match funds. We are not talking about very much money there, and the federal government could do it. I am wondering what happened that you actually were able to pass that money through for Timiskaming and if that would satisfy the requirements of the federal government. If so, I would certainly appreciate it if you would notify them so we could get some federal assistance for my area.

Mr. Ediger: My reference to the disaster assistance was in terms of what happened in Barrie. As a province, we declared it a disaster area. Even declaring that a disaster area did not make crops in that area qualify for assistance. We did not pay and the disaster fund did not pay for any crop losses in that area.

The statement someone from the federal government made that the area should be declared a disaster area and it would then make some assistance available for crop losses was probably a false statement. The disaster assistance fund does not cover that area because the subsidy already exists in the crop insurance program. The crop insurance program implies that whenever a crop is lost due to a weather peril it is automatically a disaster area if the farmer is insured. The federal government should not have said what it said.

Mr. D. W. Smith: I would like to ask a supplementary question to what Mr. Stevenson has said. If the minister feels he should be looking into his problem, as I have heard it described here, then I have a request for Lambton.

We had a hail storm there; I cannot give you the date, but I can go back and look it up. I know one farmer lost 200 acres of beans. I want to say to the minister that if he is going to open it up in one area I might be knocking on his door for another area as well.

Hon. Mr. Riddell: Therein lies the problem.

Mr. Stevenson: You have a Liberal riding, too, do you not? It is amazing that one did not get treated along with the other.

Hon. Mr. Riddell: We treat all areas the same.

Mr. Stevenson: That is right, as long as they qualify.

Hon. Mr. Riddell: That is right. Is that not typical of any program? They have to qualify; they have to meet the criteria. Surely you are not suggesting anything different.

Mr. Stevenson: No. I just have a little difficulty at times understanding the criteria. I understand there certainly are criteria.

Very quickly, one more question on crop insurance. I would like to ask a number of questions, but in view of the time, I will ask one question and then will move on.

In the election platform there was a statement indicating that changes would be made in the crop insurance plan so farmers could insure certain farms, or parts of farms, while not insuring others.

11 a.m.

Are you intending to move on that? Second, this is somewhat different. Let us take the summer, for example, where we have had very significant crop damage from hail and/or wind. Is there any thought of putting in some sort of special coverage in crop insurance where a farmer could take on this insurance, probably at a somewhat higher cost, and then harvest a certain portion of his or her crop in the presence of a crop insurance adjuster or sales person and have it weighed on site or specifically trucked to a weighing area so that more selective coverage could be given to portions of a person's crop as a result of very serious damage from extreme weather conditions?

Hon. Mr. Riddell: I am hoping the task force I referred to is looking at all the matters you are raising. Henry, you are our representative on that task force.

Mr. Ediger: I will probably answer both questions almost in the same way.

Certainly, the crop insurance commission constantly looks at these things and has looked at separate farms, separate fields, etc. There is a problem in that and/or situation in spot losses, which is basically what you were referring to in your second question.

The federal act and the provincial act limit coverage to 80 per cent of the average yield. The minute you start adjusting one field or one farm or one spot without regard to the rest of it, you are making adjustments or could make adjustments well above 80 per cent of the average farm yield. By putting funds into this, the government is saying: "You are insured at 80 per cent of your average. You take the first 20 per cent loss, and the government will cover you under your insurance program for the rest."

If for any special case, because you happen to have three fields and I happen to have one, you got compensation that I did not, you would be getting treated differently to the way I am getting treated. The only way we can treat all farmers equitably is to use all of their yield in that commodity to determine whether or not that farmer is in a claim position.

I am answering both your questions in almost the same way, because to some extent they are very similar.

One of the areas we are looking at and do look at, as the minister has suggested in his comments, are fields that are quite a way apart and perhaps even owned by different parties in the same family. Should they receive separate coverage? That is one of the areas the commission has been looking at, has wrestled with in the past and certainly is wrestling with constantly.

Mr. Stevenson: In view of the time, I will not pursue that matter at this point.

Mr. G. I. Miller: In reviewing this, there will be input from all sides. I would hope the member who has just spoken will have input into revising the crop insurance policies. I think for a long while we have been concerned that a lot of farmers are not participating because of large farms and because of the averaging out.

When we look at provinces such as Alberta—and I have used that example before—they pay on the spot damages quickly, which is what he was really referring to this morning. I would hope when we review it that this would be one of the areas that could be improved so there is more protection to the agricultural industry and not just to a few friends, as seems to be implied here. I do not think that is any way to run an operation that is representing the overall farming community.

I think it should be reviewed. I would hope you would have some input into it. We all could have some input to improve it so it would work better on behalf of everybody in the farming community. Does the minister think it is not going to happen that quickly?

Hon. Mr. Riddell: Henry, you are working on this committee. Maybe you would like to respond. I would be awfully surprised if any input was not taken into consideration.

Mr. Ediger: Certainly, there is always input into these. The commission meets on a regular basis with all the farm groups. Each year they review the plan and meet with the organized farm groups, the corn committee, the tobacco board, the vegetable board or whatever the case might be. This is a constant ongoing program.

Mr. G. I. Miller: Will the appointment of the task force be advertised? Has that been appointed? Is that in the process? Can you bring us up to date?

Mr. Ediger: Crop insurance is not part of the task force mandate at the present time. That is the mandate of the Crop Insurance Commission of Ontario, which consists basically of a group of farmers appointed by the minister to make regulations under the Crop Insurance Act. They meet then with a representative group of farmers on a commodity basis. That is an ongoing process.

Mr. G. I. Miller: Is it the plan of the minister to have a task force to review it? Is that in the works?

Hon. Mr. Riddell: Could you comment on the task force that was set up jointly by the federal and provincial government?

Mr. Ediger: The task force that was set up jointly was for northern Ontario. They have looked at the northern Ontario position as it relates basically to spring grain there. They have made their report and have met with the commission already. The commission has not responded yet to their recommendation, but will be responding within a week. The aim is not to review the total crop insurance program but to review the situation as it exists in northern Ontario.

Mr. G. I. Miller: Could that be broadened to review the overall insurance system in the province?

Hon. Mr. Riddell: I would have to find out whether it has completed its work.

Mr. Ediger: They have completed their work. They have met with the local federation in the Timiskaming area of northern Ontario and have reported to the commission now.

Hon. Mr. Riddell: The Crop Insurance Commission of Ontario, as I understand it, looks at these other matters that are drawn to their attention. If Dr. Stevenson wanted to make input, could he not send a letter?

Mr. Ediger: He certainly could. He could meet with the commission.

Mr. D. W. Smith: I want to further endorse some of the comments Mr. Miller has made. I have heard different complaints from farmers over the years. As one who has had crop insurance for quite a number of years, I know some of these fellows have farms maybe a mile or two miles apart. If there is a hail storm, it can hit one area, it can hit a half-mile area and lift again

and be gone. When we pay insurance on our farm buildings, if only one of the buildings burns down, we still get paid for that building.

There is a hue and cry for employment out there. Maybe our third-year or fourth-year university students with farm backgrounds could go out and check these fields during the summer when a call comes in that there has been damage done by a storm.

They should have to pay on that farm anyway. You should not have to average it over the farms they own. Some of these fellows might have four farms or they might have two farms. It seems if you pay insurance, certainly you are entitled to compensation for the damage that is done in one area. Just because the storm did not hit both of your farms or all of your farms, I do not think you should be penalized.

11:10 a.m.

I would hope the ministry could pass these comments along to the crop commission and say if there is damage on one farm, it should be assessed on that farm and not have to be averaged with all the land one owns. I think that is a problem for farmers. More farmers would buy crop insurance if they were not going to be penalized when it has to be averaged. I would hope you could take that into consideration.

Hon. Mr. Riddell: Bear in mind that if we make those kind of changes, the farmers are going to be faced with substantial increases in premiums.

Mr. D. W. Smith: I do not know why you would say substantial.

Hon. Mr. Riddell: There would be substantial increases in premiums. Our job would be to go back to the farmers and ask them if they are prepared—if we put all farms on an individual basis, whether they are right beside each other or not—to pay the kind of increase in premiums that would entail.

Mr. D. W. Smith: Until you tell me what sort of increases you are talking about, I am not prepared to comment either negatively or positively. I know myself—and I do not have that much land—I pay \$2,000 a year in crop insurance right now. Are you saying it is going to go up 100 per cent or 25 per cent?

Hon. Mr. Riddell: I cannot give you the specific figure. Mr. Ediger would like to comment.

Mr. Ediger: I can make a general comment on this. What you are asking for and inquiring about is whether or not separate fields can be insured, regardless of the yield on other fields. The

commission now insures farmers on an individual average farm yield. If we had to administer a program where we had individual average yields for fields, you can appreciate that if a farmer has 30 fields of corn, we would have to establish individual average farm yields for fields.

Mr. D. W. Smith: I do not think I am saying that.

Mr. Ediger: If you carry what you are asking for all the way through, if you give coverage in total on all of your production on corn, for example, and ask for a settlement on an individual field, then what you are asking for is not to apply the deductible that applies on your contract. What you have on your contract is a guarantee of so many bushels that is based on your individual average yield, the record that you have built up over the years on your farming operation. This implies that you have a deductible under your contract towards the excess that we cannot insure, above 80 per cent of your individual average farm yield.

Based on your record, you automatically have a deductible built in. Then, if you have a loss on a 10-acre field and have another 1,000 acres insured, you are saying you should be paid on it. But your other 1,000 acres may produce a yield 100, 200, 500 or 1,000 bushels above your guarantee. So what you are asking for then is that the commission pay a claim when you do not have a loss, based on your contract.

This is why I say that in order to accommodate you I would have to rewrite the contract; I would have to rewrite insurance based on individual fields. The complexity of it is quite considerable and it goes beyond the current act and the intent of the current act.

Mr. D. W. Smith: I will not say it would not be a little more complex. I will not argue with that for a moment.

Mr. Ediger: The federal act would have to be changed in order to accommodate this.

Mr. D. W. Smith: I still think it should be investigated. It seems unfair to me. If you extended this into industry, some industry has branches all over the world, and they still get insurance on the buildings in one area or other.

I can see that you are making it sound more complex than possibly it really is, but I do not know why the individual should be penalized—and that is the word I am going to use. You are talking 10-acre properties. If he has another 1,000 acres, chances are, if he has that much land, he does not have 10-acre fields, but 100-acre fields. That is the example you have

used. If he had 1,000 acres of corn, chances are he has 100-acre fields.

He should not be penalized if he lost that whole 100 acres or 75 per cent of it because of a hailstorm blowing through that farm. Hail hits that way; it hits in streaks. You could incorporate it into the overall program. You could call it a disaster in one area. I do not know how you could interpret it. I am sure that with all the staff around, people's minds could be put together and you could come up with a program that would make it a little more beneficial.

We would not need these other programs such as Essex and New Liskeard have this year, which other areas do not have and which we may not get. You should be able to look into that and be just a little bit fairer, because you will get more farmers to participate in your overall insurance program, and maybe insurance premiums will not have to go up as much as the minister has said they may.

I hope you would investigate and give it a good, thorough—

Mr. Ediger: I would like to add one thing to this. What makes it more complex to do what you are suggesting is that crop insurance is an all-risk program. It is easy to administer a program if you are talking about one peril. Basically, when we are talking about buildings, we talk about fire or something like that. All risk is completely different. It makes it more difficult. This is why we are on a production guarantee. Maybe I had better stop at that.

Hon. Mr. Riddell: We will be looking at all this. We are not ruling out what you suggest.

Mr. D. W. Smith: I would hope you would investigate it and look at all aspects.

Mr. Ramsay: I would like to reiterate what Mr. Smith brought up, since it is specifically our problem in the north. It is rather unfair of you, Mr. Ediger, to use an example comparing 10 acres to 1,000 acres. That is not usually the case, as Mr. Smith has pointed out.

In northern Ontario, you would have a 40- or 80-acre field. You might have one five miles down the road, or in the case of the storm, we had one a half mile away and it did not get touched. I agree with Mr. Smith that this is something we are going to have to look at. Obviously premiums would have to increase.

We have to tailor a program to suit the needs of the farmers. As long as they are willing to be an equal—though they are not quite equal—contributor to it, or a partner in it, along with the provincial and federal governments, we have to tailor it to what they want. The cry from our neck

of the woods is that this is the type of system we will have to look at because of the type of farming and farming situation we find.

In the little clay belt of Timiskaming, we have widespread farms. I sincerely hope that you do give it serious thought because I know this is one of the main points that the group from my area has made to the special committee the ministry helped set up. I have been watching that very carefully.

Mr. Stevenson: Just to summarize very briefly, I would invite Mr. Smith to put the maximum heat on the minister to get special coverage for the farmers in Lambton for storms this summer.

Mr. G. I. Miller: We put the heat on you for a long time and nothing happened.

Mr. Stevenson: I hope all of the Mr. Browns in Lambton get covered. I am sure Mr. Brown at rural route 1 in Pefferlaw will get favourable treatment, similar to that you are going to be able to get from the minister for the hard-working farmers in Lambton county.

The two major areas that I have left to ask questions on are tripartite and the Ontario family farm interest rate reduction program and related programs. There is no particular preference in which order we take them.

Let us start with the OFFIRR program. How many applications are in and what sort of growth rate have you seen in the rates of applications in the last three or four weeks, week to week?

Hon. Mr. Riddell: Nancy Bardecki will respond to this.

11:20 a.m.

Mrs. Bardecki: To date, we have more than 3,000 applications in under the OFFIRR program. A large proportion of these arrived in the last two to three weeks. They are coming in at the rate of 800 a week.

Mr. Stevenson: In the minister's opening statement, I believe he said 2,500.

Mrs. Bardecki: By now, we have more than 3,000.

Mr. Stevenson: He used the same number at the Ontario Federation of Agriculture annual meeting, and now you are saying 3,000. In three weeks, you have had 500 new applications?

Mrs. Bardecki: There are more than 3,000 in now.

Mr. Stevenson: Is that 3,050, 3,500, or 3,800?

Mrs. Bardecki: I cannot tell you the exact number. They are not all keyed into the computer

yet, and that is how we keep our count. I am aware that far more than 3,000 applications are in.

Hon. Mr. Riddell: Whenever I make a statement, I try to be conservative in my estimates. You would not take offence at that, would you?

Mr. Stevenson: I have noticed that.

Mr. Barlow: You are one of the most conservative members in caucus.

Mr. Stevenson: We will talk a little about some of the statements you have been making. We will get to that shortly.

What is the average payment so far to the few hundred people whose cheques have been mailed?

Mrs. Bardecki: The average payment is around \$7,000.

Mr. G. I. Miller: How many cheques have been sent out?

Mrs. Bardecki: There have been about 1,000 actually paid.

Mr. Stevenson: Do you anticipate the money that will likely be spent on the Ontario family farm interest rate reduction program will reach the \$50-million mark?

Mrs. Bardecki: That is dependent on how many eligible farmers apply. With the assistance of the Ontario Federation of Agriculture, we certainly made a concerted effort in the last two to three weeks to encourage all eligible farmers to apply. If they do apply, we will reach the \$50-million figure. It all depends on those farmers.

Mr. Stevenson: As I recall the original number, it was around 15,000.

Mrs. Bardecki: Up to 10,000 farmers were expected to apply, I believe the minister said.

Hon. Mr. Riddell: Ten thousand farmers could be helped with this program. A more accurate figure would be 13,000, but we know some farmers will not apply for any program, regardless of what it is. We take into consideration those farmers who could be eligible but are not going to apply. We feel 10,000 farmers could be eligible for assistance of some kind.

Mr. Stevenson: I would expect you are somewhat disappointed in the rate of applications at this stage.

Hon. Mr. Riddell: Being a farmer, and trying to get my crop off under such weather conditions as we have had, probably the last thing that would come to my mind would be to sit down and start filling out documentation for a program

when I have thousands of dollars worth of crops sitting in the fields. That is why we expect between now and the deadline we will have applications rolling in, because farmers will have more time to fill out the information we require. You and I know we are not going to interfere in any way, shape or form with a farmer when he gets himself planted in that combine.

Mr. Stevenson: Is there some guarantee that the deadline will be extended past December 31 if farmers still have application forms and have not had time to get them in? Will there be extensions to the time or expansions to the program to allow everyone the opportunity to get an application in?

Hon. Mr. Riddell: It is something we will have to consider when the time comes. We are making a concerted effort through advertising. You probably saw the last Ontario Ministry of Agriculture and Food news, one you are very supportive of. I believe it was about the centrefold—

Mr. Stevenson: The minister is in on the centrefold?

Hon. Mr. Riddell: —where we encourage the farmers to get their applications in. We are doing everything we can to encourage the farmers to make applications. When the deadline comes, we will have to decide then whether it will be extended.

Mrs. Bardecki: I want to point out that the deadline is January 15, 1986, as opposed to December 31, 1985.

Mr. Villeneuve: I have a short supplementary. Possibly Nancy can help me. I am in the process of completing your forms. They are a little bit lengthy and complicated. Are you having to send a number of them back to the applicants for clarification, further information, and so on? What is the percentage of contact back to the farmer?

Mrs. Bardecki: Unfortunately, a large proportion of the applications have to be returned for additional information, but it is not really because the information is inadequate or improperly done; it is that they have left things out, including an entire document. For example, they are asked to put in an accrual income statement. Sometimes the application will come without a statement. An income tax form is one requirement because of the off-farm income criteria. Sometimes the farmer will fail to send in the income tax document. There is a problem there.

Mr. Villeneuve: I had a number of cases and maybe I can cite this one. A French-speaking

farmer from the town of Apple Hill is in the poultry operation. He has 10,000 layers and his income is on a cash basis. I believe his income statement, all of his documentation, was sent in French. It was all sent back. It has been clarified since by telephone, but he was not happy when he got all of his documents back. I got a call. I gave him your name and phone number. I hope that was not presumptuous on my part, but I understand it has been solved in the interim.

Another one was a different situation. A young farmer had purchased a farm seven or eight years ago and applied for the OFFIRR program. When he purchased, in order to make sure the security was good and so on, the bank required his father be a co-owner of the farm. The father is not involved in the farming operation at all. He works and lives in the city, but he is still a joint owner of that dairy farm. My understanding is that the people at OFFIRR said, "Fine, you are eligible for only half what you would be, should you be the sole owner." What might be the situation under those circumstances?

Mrs. Bardecki: There are all sorts of situations where parents and children or brothers and sisters or other people are in a single enterprise with one or more owners. This program goes on a family basis. Each individual in the farm family is assessed as to eligibility, in accordance with the criteria; that is, for net worth, which has an impact on the amount of grant payable. Off-farm income has an impact on the amount of grant payable. We would look at both the owners of the farm—if both gentlemen are owners of the farm.

Mr. Villeneuve: Legal owners, yes.

Mrs. Bardecki: We would assess each one's eligibility according to net worth, off-farm income, and so on. We would then see how much debt each one was eligible to have covered, in accordance with the net worth, and how much Ontario Junior Farmer's Establishment Loan Corp. mortgage was outstanding. If the net worth of one of the individuals or both individuals happened to be under \$300,000, and there was no junior farmer establishment loan corporation mortgage, each one would be eligible to have \$200,000 of debt covered, provided they were both farmers and involved in the farm operation. Then we would see whether or not each of those individuals had \$200,000 of debt eligible to be covered.

11:30 a.m.

The way we would determine the amount of debt related to each of the individuals would be to look at their share in the partnership. If each

owned 50 per cent, it would be assumed that each had 50 per cent of the debt in the absence of any legal document stating otherwise.

Mr. Villeneuve: Perhaps I can set out an example. This father is only on title as a joint owner at the bank's demand; he does not derive any income from the farm, does not work on the farm and does not reside on the farm. He is there simply as a technical requirement of the bank. I do not know whether it has been corrected. I thank the minister for having sent a notification that he was looking into the situation. I have not heard any more about it. Would that eliminate half of his Ontario family farm interest rate reduction program rebate?

Mrs. Bardecki: I would have to see the circumstances of the individual case. There are many different ways in which people can guarantee family farm loans.

Mr. Villeneuve: That is all it was.

Mrs. Bardecki: If it is only a loan guarantee or a cosignature on a loan—

Mr. Villeneuve: As a joint owner.

Mrs. Bardecki:—rather than a joint owner in the corporation, then it is a different sort of circumstance. If you would like to give me the name afterwards, I will look into it.

Mr. Villeneuve: I would appreciate that.

Mr. Ramsay: I want to get some clarification from Mr. Villeneuve. He said he was filling out a form and I presume he was filling out a form on behalf of one of his constituents.

Mr. Villeneuve: On behalf of a farmer named Villeneuve.

Mr. Stevenson: He wishes he was just filling it out for a constituent.

Mr. Chairman: Are there any other questions?

Mr. D. W. Smith: I am going to move back to item 2, financial assistance policy. I see you have some \$3.2-million worth of services. What are those services? Who can answer that question?

Mrs. Burak: The \$3.2-million services figure covers services for two branches in Mr. Ediger's division, the crop insurance and stabilization branch and the farm assistance programs branch. Moneys in there would cover such things as computer system support for all the crop insurance programs, per diems for board members—

Interjection: Agents, adjusters.

Mrs. Burak:—all of the adjusters under the crop insurance program; all of that.

Mr. D. W. Smith: There are really two headings for the crop insurance program. When you say computer programs, are you saying we would lease computer services?

Mr. Ediger: No. We rent computer services for the mainframe from the Ministry of Government Services and we also rent it outside from Comtech, but we do our own programming. I do not know what your question is. A big share of that would probably be crop insurance agents' commissions and adjusters' fees; maybe close to half that.

Mr. D. W. Smith: How many crop insurance agents do you have throughout the province?

Mr. Ediger: There are about 100.

Mr. D. W. Smith: I will leave it at that.

Mr. Chairman: Are there any other questions on any part of vote 2104?

Mr. G. I. Miller: I have a couple of questions on the Provincial Auditor's report. The contract for \$1.2 million for the computerized system was not tendered, nor was the approval of Management Board obtained. The second question is that two levels of government, the Ministry of Agriculture and Food and the Ministry of Health, were performing the same sanitation inspection of livestock processing facilities. Have those two areas been looked into and corrected? I suppose you cannot correct the contracting of \$1.2 million for computerizing the system.

Hon. Mr. Riddell: I am sorry you raised that question, Mr. Miller, because I would like to try to avoid any embarrassment as to what took place before I came over. But I would—

Mr. Villeneuve: Go ahead anyway.

Hon. Mr. Riddell: I hesitate to turn it over to my staff. I really do not know what to do in this case. Rita, do you want to respond? Do not be backward.

Mrs. Burak: I was not here either.

Mr. G. I. Miller: You were perhaps aware of the report.

Mrs. Burak: Mr. Miller is referring to the report of the Provincial Auditor. The computer system he is referring to was initiated within the ministry in 1982. Our response to the auditor was that while some mistakes may have been made in the past, we felt that we now had sufficient controls in place. I want to assure the minister and the committee we now have sufficient controls in place to ensure that all of the policies and the Manual of Administration are being complied with. We have strengthened the system's function by pulling all of the staff together

in one branch, reporting to Henry Ediger. We feel that no further problems will occur.

Mr. G. I. Miller: And the ministries of Agriculture and Food and Health performing the same inspection services—has that been corrected?

Mrs. Burak: Again, the ministry's response to the auditor, which was also published, was that before the auditors even came, an interministerial committee had been established between Health and Agriculture and Food, and procedures had already been set out. Frankly, we were surprised that the auditor made that recommendation as that was a problem which had already been addressed.

Mr. G. I. Miller: The final question I would like to ask is about the Ontario family farm interest rate reduction program. Has it been more widely accepted by the farming community than the other programs were, such as the Ontario farm adjustment assistant program? I suppose we are comparing the record of the programs brought in now with the old programs that were in place. Do you have any numbers on those?

Mrs. Bardecki: The programs have different purposes, different criteria and a different target group, so we can expect different numbers of farmers to be applying no matter what the acceptance level. But there have been more farmers applying under OFFIRR than under, say, OFAAP or the Ontario career action program.

Mr. Villeneuve: Is that possibly because they now are in more difficult economic times than they were when the other programs were oriented towards other—

Mrs. Bardecki: I think it is that they are not really the same programs with the same criteria.

Mr. G. I. Miller: I guess the reason the question was asked is I think we want any program we bring in to be used by as many people as possible to assist the agriculture industry. Comparing sometimes helps us to see if we are on the right line. I agree that there probably are more people hurting this year than last, and that was the purpose of the question.

Mr. D. W. Smith: How many farmers were under the OFAAP option C part of that program? They would be the ones I would feel would be in the most difficulty. How many farmers were under that option?

Mrs. Bardecki: Do you mean over the course of the entire program from 1982 to date? I am sorry, I will have to add this up.

Mr. D. W. Smith: Just an approximate figure.

Mrs. Bardecki: Over the course of the program, just an approximate figure, I would suggest that 1,000 give or take a few used option C of OFAAP.

Mr. D. W. Smith: Those are the ones who right now could be in the most serious problems—the ones who have been under that program. Would that be a safe statement to make?

11:40 a.m.

Mrs. Bardecki: I would suggest that the reason the people went on option C was because they were in serious financial difficulty and unable to get credit without the benefit of a government guarantee. There were others, of course, who were in even sadder financial shape and unable to get a government guarantee because there was no apparent light at the end of the tunnel. I would not say that the option C cases covered all who were in financial difficulty.

Mr. D. W. Smith: Do you have any percentage figures on those 1,000 farmers who were under option C, as to whether they did or did not survive the stress or problems with their farms?

Mrs. Bardecki: We do not have exact figures, but I can say safely that more than half those people are still in business, some of them prospering despite the difficult economic circumstances today.

Mr. D. W. Smith: So, you think that at least half of them have survived.

Mrs. Bardecki: That is right. Who knows what will happen in the future, given the economic circumstances today—

Hon. Mr. Riddell: I had an opportunity to speak to the former Deputy Minister of Agriculture and Food this morning. He told me that when the program was introduced, they were reasonably sure that 25 per cent of the farmers who applied and received the guarantee would not make it.

Mr. D. W. Smith: So, it was even worse than they had projected when they started the program.

Hon. Mr. Riddell: We are probably running at around the 25 per cent figure for those who are not making it.

Mrs. Bardecki: That is approximately correct. Circumstances have proved to be much more difficult than we or anybody anticipated they would be back in 1982.

Hon. Mr. Riddell: There is no question. Before any farmer applies for that program—and, believe me, I have a series of reservations about

the program—they would have to be in bad financial straits. Otherwise, they would not apply for a program where they had to sign away all their security. I have not been able to accept that part of the program but the farmers accepted it at the time because it was their last-ditch effort to try to hold on—even if it meant that if they could not make it then, when the guarantee was called, so was all other security held by the bank.

Mr. D. W. Smith: I am not going to sit here and criticize the program, whether it be good, bad or indifferent. I had a few constituents come to me and say a moratorium is in place on Farm Credit Corporation mortgages. But they had been told by the banks how they were going to get around that. The banks were going to pay back the FCC mortgage and then exercise the option to foreclose on them that way, so they were really not protected once they had signed option C.

I am not condemning, really, because I do not think anybody could guess in 1982 that we were going to get into worse problems. It was a program that was put in place and it helped in some cases, from what I am hearing. Yet now a few individuals are going to be taken advantage of—if I can use those words—by the banks. I do not know whether or not the banks are justified in going that far, but that is how they are going to get around the moratorium on FCC mortgages.

Hon. Mr. Riddell: The old saying goes, "There is more than one way to skin a cat", but we have met with all the bankers on an individual basis, and at least twice with the Canadian Bankers' Association representing all banks. We were optimistic after the meeting that they were going to co-operate with our programs.

I put a temporary deferral on any government programs, such as option C, junior farmer loan and what we know as the old agricultural and rural development agreement program, and set up an advisory committee. The banks indicated they would co-operate in every way they could with us. We came away from those meetings optimistically.

Some banks are worse than others. Believe me, we have had frank discussions with some of those banks that are not co-operating. But if a way exists to exercise power of sale or foreclosure, despite any kind of a moratorium in place, if they want to do it, they will probably find a way.

Mr. Villeneuve: For the record, Minister, would you name those banks?

Hon. Mr. Riddell: The banks not co-operating?

Mr. Ramsay: Better not. We could get a nasty letter.

Mr. Barlow: We could get our accounts cut off.

Hon. Mr. Riddell: To retain whatever co-operation we can get, we had best not.

Mr. Ramsay: I could name the bastards and we could do it that way. I do not mind getting a letter because I hate most of them.

I would like to get clarification from Mrs. Bardecki. Can you actually back up what Mr. Smith has said—that some of these banks are paying out the FCC to circumvent option C? Do you have any evidence of this happening?

Mrs. Bardecki: First, whether or not a bank chooses to exercise its power as a mortgagee that is subordinate to the Farm Credit Corporation has nothing to do with whether the person is on option C of OFAAP. But if the FCC is the first mortgagee and the bank or some other creditor is the second mortgagee, the first mortgagee, FCC, has no control over whether the second mortgagee undertakes legal action to, in its mind, protect its security. Mr. Wise himself announced, when he put the moratorium on, that those situations were expected. Certainly the corporation would act to protect its first mortgage security in those cases and it is happening.

Mr. D. W. Smith: I would like to put an example in my own riding into the record. I am not going to release names, but I want to take you back two or three years, to where a bank valued the farm land at \$4,000 an acre in this area. I do not believe that land was ever worth \$4,000 an acre or ever sold for \$4,000 an acre. But to build a hog operation on this farm, it had to be valued that highly to make it seem the value was there on paper. It was a father and son setup. It was sold out in August 1985, and the bank took a loss of around \$700,000.

In the other case, the same bank is starting to foreclose on this individual. I almost wonder if they are not trying to recover from one farm setup. I do not blame the farmer in the first instance of all that wrongdoing. The bank was party to that. They knew what they were putting on paper. They said the land was worth \$4,000 an acre but it has been proved to never have been worth that. They know there is some worth left in this other farm which they are selling out now. I wonder if this is the way they are trying to recover a loss from one operation by getting something out of another one. This is what hurts a little bit.

I am not going to sit here and say that the farmers are all bad managers. If you look at some bank loans that were made worldwide, some of these bank presidents were not the smartest individuals in the world. I am not going to sit here as a farmer representing a rural riding and say that the banks are not responsible to a degree for allowing these loans in the first place.

11:50 a.m.

That is an example in my riding. As I said, I am not giving any names, but these things actually are happening or have happened. I am even going to take a banker out for supper and ask him in a nice way about these things. I want to see what these guys are really thinking. I wanted to put that on the record.

Mr. Stevenson: I will make a brief comment. On the OFFIRR program, I hope the farmers apply for the full \$50 million. I hope \$50 million is not enough to cover the requests that come in, assuming there are enough farmers out there. I hope there are not enough farmers in bad shape who need the money but I suspect that is not the case. I hope they apply and that all the money is spent.

I do not mind saying, Mr. Villeneuve, there is another member sitting beside you who could well apply. I have not decided yet whether I will or not, but I have no doubt in my mind I would qualify. This is a program that the minister has billed as the most significant program to come along in I do not know how long. It is interesting the amount of advertising and work done, including just about everything but enlist the Canadian army to assist in getting in the applications. I hope the farmers will take the initiative and take advantage of the program.

I want to ask one question on allocations of new funds for programs. Some of the farmers who were at the federation of agriculture gave me a number that the minister had stated, namely, that \$130 million worth of new programs have been initiated since June. I wonder what that \$130 million is made up of.

Hon. Mr. Riddell: We have—

Mr. Stevenson: I apologize. I should not put the senior management and the minister in any position such that they would have to defend anything the minister says. I would like a response to that question.

Hon. Mr. Riddell: I am wondering, too, whether you have your facts straight. One of the references I made to \$130 million was that when we took away the ad valorem tax on tobacco, which was not something of our doing—the

member will agree with me there—it meant there was \$130 million the Treasurer was not going to get which he would have got had the ad valorem tax remained. That is where the \$130 million comes from that you are referring to.

I am sorry, I do not have the breakdown. There is the OFFIRR program of \$50 million.

Mr. Stevenson: Which indeed is new money.

Hon. Mr. Riddell: That is right. There is close to \$31 million in retroactive payments for tripartite.

Mr. Stevenson: Of which \$15 million is already included in the estimates here.

Hon. Mr. Riddell: Right.

Then there are farmers in the transition program, 6 million; crop introduction and expansion program, \$2.5 million—

Mr. Stevenson: Which was a re-announced program.

Hon. Mr. Riddell: Re-announced? If you want to take credit for it, fine.

Mr. Stevenson: It is not a matter of who is taking credit. I just suggest that if the farmers could play with numbers in the revenue side of their businesses the way you have been playing with numbers, then every farmer in Ontario would be showing a profit this year. I hope you continue to get support for the farmers of Ontario for I do not care how many new programs.

Hon. Mr. Riddell: Wait a minute. Let us go back to this re-announced program. When you were the minister, did you have \$2.5 million in the budget for that program?

Mr. Stevenson: I cannot say how much, what the announcement was. I just am aware that—

Hon. Mr. Riddell: Now who is stammering and stuttering?

Mr. Stevenson: I would like to see what the new programs are and what are over and above what was published in the estimates. As I say, more power to you. There has been a little bit of creative accounting. I am sure Ontario farmers would like to use some of that accounting.

Hon. Mr. Riddell: Wait a moment. Do you want to add to this, Rita.

Mrs. Burak: I am not certain where the figure of \$130 million comes from. Earlier in these debates I believe we indicated the total of new approvals over and above appropriation by cabinet reached \$417 million. Add to that another \$10 million for the additional funds given to us for stabilization and it brings it up to \$427 million. We have not included in the totals I read into the record, programs that were ap-

proved and for which we still have to get an additional appropriation. I am thinking of things such as the hail damage for Timiskaming and New Liskeard and salary awards. It will be higher still.

I would be pleased to list it for you.

Hon. Mr. Riddell: Absolutely. Let us give Dr. Stevenson an accurate accounting of the money, including the hail damage money we sent to Timiskaming and to Essex.

Mr. Stevenson: And is there going to be something for Lambton and York? I have no question for the assistant deputy minister about the numbers I am aware of. She covered them thoroughly in the past. I am much aware of those numbers—maybe not to the exact dollar, but in round numbers. I do not know that I need a listing. I think there have been other numbers quoted in other forums which I am not sure necessarily fall in line with the numbers I have heard used here.

I want to move on to tripartite stabilization. We have just a few minutes left. To clarify some things in tripartite stabilization. I think I know the answers, but I am not entirely sure. Once January 1, 1986, comes along, am I correct in saying that the Agricultural Stabilization Act—the old program—for all portions of red meat, ceases to function in all provinces of Canada, regardless of whether they sign up or not?

Hon. Mr. Riddell: Right.

Mr. Stevenson: What happens to the old programs, for example, for corn, or the old programs which are not within tripartite at the moment?

Mr. Ediger: The programs still remain.

Mr. Stevenson: Okay. Has there been any discussion with any groups about expanding tripartite, the type of tripartite relationship outside of the red meat area?

Mr. Ediger: Not at this stage.

Hon. Mr. Riddell: We have talked to the potato producers and the apple producers when they were in. There definitely were discussions about tripartite for both potatoes and apples, and the producers seemed quite interested. I imagine they will pursue it with the federal minister.

Mr. Stevenson: What advantages are there to tripartite for, let us say, potatoes, apples and corn? Are there any?

12 noon

Mr. Ediger: Probably the level of coverage that the federal government provides under ASA is generally 90 per cent of the past five-year

average adjusted for cash costs. Tripartite generally goes higher than that. The formula is gross margin, so it is a different formula; but because of the provincial participation and the farmer participation the level of coverage is higher.

Mr. Stevenson: Will it automatically be higher, or do you mean it would have to be negotiated at a higher level?

Mr. Ediger: It would have to be negotiated higher.

Mr. Stevenson: The Ontario Pork Producers' Marketing Board is anticipating that out of the swine industry study and in the further joint work the ministry and the board are doing, programs will be made available to swine producers along the lines of those for the beef and sheep producers of the province. Is there any concern that those types of programs will be difficult to bring on line in light of signing tripartite stabilization?

Hon. Mr. Riddell: We do not think there will be a concern as those could probably be classified as bottom-loading programs and there is nothing in the tripartite agreement to prevent bottom-loading, although we would hope that a limited amount of that would be done in the various provinces. Ontario has been the least subsidized province from the standpoint of agriculture of any province in this country. Believe me, they are not going to start to look for programs which they could consider bottom-loading or top-loading in this province.

There is nothing in tripartite that is going to prevent us from carrying on with development programs, if you want to call them that, such as our red meat program.

Do you have a copy of that clause in the tripartite that we discussed the other day, Henry?

Mr. Ediger: No, I'm sorry, I don't right here.

Hon. Mr. Riddell: Maybe you can indicate exactly what is in that clause that would certainly allay any fears we might have about future programs that we could implement in red meat.

Mr. Ediger: What they are looking at more is a bottom-loading that is very specific to a commodity or some of the things that are occurring in western Canada. The red meat one is more developmental. I doubt whether they would look at that. Again, as the minister indicated, there are other provinces that are doing much more than Ontario.

The deputies have set up a committee to look at this. British Columbia and Quebec are quite concerned about bottom-loading by some of the provinces. Again, they are zeroing in more on

western provinces than they are on Ontario. I have never heard them mention Ontario bottom-loading.

Our concern has to be very minimal at this stage compared to what other provinces are doing.

Mr. Stevenson: The minister keeps saying he hopes the western provinces are going to sign and so on. Are we talking about dates? What stage of negotiation is the discussion in with the western provinces at the moment?

Hon. Mr. Riddell: Alberta was ready to sign. The minister wanted a date set when both Ontario and Alberta could sign with the federal minister. However, there was a change of leadership in that province and, as you well know, when a new leader steps in, he wants to take a look at all existing programs and proposed programs. That held Alberta up to a certain extent, but from my conversations with Mr. Fjordbotten at the Halifax conference, he wants to get it signed as quickly as possible.

Saskatchewan was prepared to sign, but the Saskatchewan Wheat Pool apparently threw in some kind of a roadblock, which is temporary. I do not believe the Saskatchewan Wheat Pool fully understands the program. Until such time as it can satisfy its concerns, it may well be that Saskatchewan will not be prepared to sign in the immediate future.

The maritime provinces have made it abundantly clear that it wants Mr. Wise to change the feed freight assistance to restore some equity they felt was lost when the old Crow's Nest Pass rates were changed. They are not prepared to sign, but Mr. Wise apparently is anticipating some changes to the feed freight assistance. If that meets with the satisfaction of the maritime provinces, they will be very quick to sign tripartite, according to the information I received.

Henry, do you want to elaborate further?

Mr. Ediger: I think the minister has covered it fairly well. We certainly do believe Alberta will sign fairly quickly. A number of the maritime provinces may sign the beef agreement fairly quickly. They are more concerned about feed freight assistance than about hogs.

I believe our signing will move some of the other provinces fairly quickly into signing.

Mr. Stevenson: Alberta came out with Crow adjustment money that was a substantial chunk of money. I suppose that really is not being considered as interfering with tripartite at all. That, obviously, is going to have major impact on the income of producers there.

Mr. Ediger: That is one of the complaints Quebec has as far as tripartite is concerned. We talk about top-loading, but they talk about bottom-loading, side-loading or whatever. That is one of the things the deputies' committee will be looking at, all these other programs and some of the programs that the west has introduced very recently.

Mr. Stevenson: There was that additional \$40 million over and above the Crow. That was bipartite, and I suspect this has died or will die if they sign the tripartite agreement. There was a report on the radio, but I have not seen it in the printed media, of another substantial amount being made available by the Alberta government just in the last week or two. What exactly was that and who is eligible? When are the funds going to flow?

Mr. Ediger: I am not sure I know. Perhaps our deputy knows more about it. I understand some of the funds that were made available recently were directed on account of the drought to the beef producers, to maintain herds. Basically, the funds are flowing for that purpose in Alberta and some in Saskatchewan as well. They appear to be right across the province, but they were directed towards the beef producers to maintain the herds because of the drought.

Hon. Mr. Riddell: They have had two years of droughts. I think \$62.9 million of the \$75 million which was put into the program over a period of two years—\$75 million a year—is directed to the drought areas, although my understanding is that it is also going to apply to pretty well all livestock producers whether they happen to be in drought areas or not.

Mr. Stevenson: Will it be applied evenly or is there a preferential targeting to producers in certain areas? Are you saying everybody gets it? Are we going to call it a drought relief fund?

12:10 p.m.

Mr. Ediger: The intent was to apply it in the drought area. The problem in applying anything to a drought area is in drawing a line and saying, "Here is where the drought began and here is where it finished." They found that was just as big a problem, so they are applying it evenly throughout the province. The intent was and still is for the drought. The problem is drawing the lines where the drought began and where it finished.

Mr. Stevenson: Obviously Mr. Smith should look up the arguments used for that in Alberta so we can apply the same principle here in Ontario

for farmers affected by hail and the serious storms that affected Ontario during 1985.

Mr. D. W. Smith: I do not know whether there is a heritage fund in Ontario such as they have in Alberta. Is there?

Mr. Stevenson: There would be something equivalent to it.

For my own purposes, could you clarify this business of who is going to get support with the cattle. I understand it is just for people who sold slaughter cattle. None of the intermediate handlers—growers, backgrounders, stocker producers, movers, whatever—get money unless the animal is slaughtered.

Mr. McKessock: Are you talking about this year?

Mr. Ediger: For 1985?

Mr. Stevenson: For 1985, yes.

Mr. Ediger: There will be a payout for slaughter cattle, and we will define slaughter cattle for periods 2 and 3.

We intend to administer this, and administering a program and proving slaughter is very difficult the way we market our animals in Ontario, as you probably are well aware. We are saying that a slaughter animal will be one that is a heifer over 900 pounds or a steer over 1,000 pounds, grades A, B or C. We will count pounds gained in order to determine the amount of payout. I think 448 pounds will be equal to one animal in our pounds of gain. The farmer does not have to prove conclusively that an animal was slaughtered if it is over 1,000 pounds. If it is below that, we will look for more proof.

We will start counting pounds when the animal is 575 pounds in weight. We are attempting to eliminate veal, both red and white. An animal that is fed from 575 pounds to 1,175 pounds will be counted as a little more than one animal.

Mr. Stevenson: Some of the smaller farmers who still run a program along the lines of the old baby beef program—where the calf would spend an extended period of time with the mother and then in some cases under heavy grain feeding during the summer and short-term heavy grain feeding after the nursing period is over—would by quite iffy in terms of qualifying.

Mr. Ediger: Basically, those animals would qualify. We are saying that if you are raising an animal from a calf you would qualify under a cow-calf program. The cow-calf program did not trigger a payout for 1985. Therefore, none of those animals under 575 pounds, if sold for slaughter, would qualify for any payment.

Mr. McKessock: I have a supplementary. We used to have veal calves at home. We would buy them as baby calves and then sell them at 500 pounds. Are you saying the veal program will come in under the cow-calf program?

Mr. Ediger: I am saying the veal calves do not qualify under a slaughter program. If you are buying and selling veal, they do not qualify under any of the programs.

Mr. McKessock: What is the justification for that?

Mr. Stevenson: Talk to the minister. Obviously there is no justice here.

Mr. McKessock: I know. We vealed 500 calves a year when I was at home and to me that was a finishing program. We finished them at 500 pounds. It was a finishing slaughter program.

Mr. Ediger: The price of veal is different from the price of finished animals. I realize they compete on that market, but the program in place here and the agreement we have signed with Ottawa is the slaughter animal agreement, which basically has been determined to be a finishing animal—what we consider beef animals over 1,000 pounds or 900 or whatever the case might be for heifers. The program has purposely eliminated veal.

Mr. McKessock: I lost the reason.

Mr. Ediger: The reason is that the pricing structure for veal is different from—

Mr. McKessock: Are you saying it is different because it is better, or it is just different?

Mr. Ediger: I am just saying it is different. I am not saying it is better or worse.

Mr. McKessock: On that same line, you are saying these cattle will have to grade A, B or C. If they are sold at auction sale, how are you going to tell what they grade?

Mr. Ediger: We cannot tell how they grade when they are sold at an auction. But what we can do is see what price they are sold at and we know about what grades A, B and C sell for. We determine whether they are cows or bulls or whatever the case may be if they are not graded by price.

Mr. McKessock: There is a big variation in price so you are going to set a price range you consider will be—

Mr. Ediger: Most animals are not graded so you could trace them back anyway. We had to do that in 1980 and we will have to do it again.

Mr. McKessock: Just to come back to the veal, I am trying to determine why they are left

out. The cow-calf, the feeder and the slaughter are there, but slaughter veal is not. This is fairly important to our area where we raise these heavy veal. They go directly to slaughter. This past year, as with all other slaughter animals, money has been lost in that business. Sometimes you get a premium for the slaughter of this type of calves, but not generally. They rate along with the slaughter beef animals. Of course, the cost of their feed is much higher. They are on full feed grain right from the start.

Have I still missed it? Is there any reason?

Mr. Ediger: No. I think I have given the basic explanation that veal is different. I should probably not use the analogy, but it is like saying, "Why is horse meat not included in the slaughter program?" I am exaggerating somewhat, but veal is sold on a different market from slaughter. If you go into a grocery store, you do buy veal; that is what you ask for, it is different.

One reason we are excluding not only white veal but also the butcher calves or the red veal you are talking about is the length of time these are normally on a farm. We are not excluding them completely. What we are saying is that any gain put on over and above 575 pounds is eligible, providing we get proof of slaughter.

Obviously, if they go to market under the 575, no pounds are eligible. We are trying to get at animals normally kept for a reasonable period of time for slaughter purposes.

Mr. McKessock: You realize those veal calves are kept for five months on a full feed grain program, probably as long or longer than any other slaughter cattle.

Mr. Stevenson: With 400 pounds of gain—

Mr. McKessock: There would be at least 400 pounds of gain.

12:20 p.m.

Mr. Stevenson: —in excess of short-keep calves. Anyway, obviously the Liberal agricultural caucus has a number of issues it will wish to discuss at length with the minister. We certainly wish them the best.

Hon. Mr. Riddell: We do have what we call our rural caucus meetings at least twice a week. This is probably a change from what has been done in the past, although I should not speak for the way you people operate. We do meet with these people but, strange as it may seem, Mr.

McKessock, to the best of my knowledge, the farm organizations and the Ontario Cattlemen's Association have not requested that veal be included in a red meat program.

Mr. McKessock: We always figured they did not look after us very well.

Hon. Mr. Riddell: I am sure you would like to pursue it with the farm organizations to see if they want to make a request to include veal. We have the framework now for cow-calf. I am sure a request will be made to include cow-calf in the tripartite stabilization program.

Mr. McKessock: Is the cow-calf not in there now?

Hon. Mr. Riddell: No.

Mr. McKessock: Just the slaughter?

Hon. Mr. Riddell: That is right.

Mr. McKessock: That is for next year as well as this year?

Hon. Mr. Riddell: That is right.

Mr. Chairman: I am afraid I must intervene. We have used up the full 18 hours.

Items 1 to 3 inclusive agreed to.

Vote 2104 agreed to.

Supplementary estimates agreed to.

Mr. Chairman: This completes the study of the 1985-86 estimates of the Ministry of Agriculture and Food, which I shall report to the House.

Mr. Minister, I think I speak on behalf of the members when I express my appreciation to the staff who have made the examination of your expenditures much more efficient.

Hon. Mr. Riddell: I would like to join with you in thanking my staff. I also would like to thank the members of the committee for allowing me time to attend other functions when we were supposed to be sitting in these estimates. They realize that one of the functions before cabinet resulted in a good report the next day, tripartite; and then, of course, there was the Halifax conference which I was asked to go to by the Premier (Mr. Peterson). Thank you for adjusting your timetable to meet mine.

Mr. Chairman: We are then adjourned until tomorrow evening at 8 p.m. when the Ministry of Labour estimates will be before us, with Mr. Ramsay in the chair.

The committee adjourned at 12:22 p.m.

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 Burak, R., Assistant Deputy Minister, Finance and Administration
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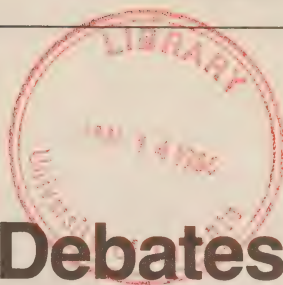
Ontario

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Official Report of Debates

Legislative Assembly of Ontario



Standing Committee on Resources Development
Estimates, Ministry of Labour

First Session, 33rd Parliament
Thursday, December 5, 1985

Speaker: Honourable H. A. Edighoffer
Clerk of the House: R. G. Lewis, QC

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chairman: Laughren, F. (Nickel Belt NDP)

Vice-Chairman: Ramsay, D. (Timiskaming NDP)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Gordon, J. K. (Sudbury PC)

Hayes, P. (Essex North NDP)

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Rowe, W. E. (Simcoe Centre PC)

Smith, D. W. (Lambton L)

South, L. (Frontenac-Addington L)

Stevenson, K. R. (Durham-York PC)

Substitution:

Sheppard, H. N. (Nurthumberland PC) for Mr. Rowe

Also taking part

Gillies, P. A. (Brantford PC)

Lupusella, A. (Dovercourt NDP)

Mackenzie, R. W. (Hamilton East NDP)

Wrye, Hon. W. M., Minister of Labour (Windsor-Sandwich L)

Clerk: Arnott, D.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, December 5, 1985

The committee met at 8:04 p.m. in room 228.

ESTIMATES, MINISTRY OF LABOUR

The Vice-Chairman: I call the committee to order. I see a quorum. The chair is a novice at this.

Mr. Barlow: And totally impartial.

The Vice-Chairman: Totally impartial, that is correct. I would like to welcome all the members tonight to the second chapter of estimates of the standing committee on resources development. We are going to be addressing the estimates of the Ministry of Labour. I would like to thank the minister for being with us on this important occasion.

I expect that tonight we will be able to go through the opening statements of the minister and possibly the Labour critics for the two opposition parties. Perhaps that is wishful thinking, I do not know, but we will attempt it.

Mr. Sheppard: What time do we adjourn, 10 p.m. or 10:15?

The Vice-Chairman: It will be 10:30 p.m., if you are good. If you keep it up, we might go later. I do not know.

Mr. Sheppard: Let us get it straightened out now. We are going to have a vote tonight in the House, so we have to adjourn at 10:12 or 10:15.

The Vice-Chairman: We will have to see what happens.

Mr. Mackenzie: I have a query that might be useful. One of the things that caused problems in the last couple of sets of estimates was a minister's statement that went in excess of three hours, which obviously prompted the opposition to respond. I understand that will not be the case this time. However, I would like some indication of whether we are back on track to an appropriate ministerial statement, whatever the time, and appropriate responses or are we into the game of who can outlast who? I hope those days have ended.

The Vice-Chairman: Will you allow the minister to answer?

Hon. Mr. Wrye: My friend has outlasted me on many occasions. Let me put his mind at ease by asking my staff to distribute the opening statement even before I begin reading it. I think it

is 42 pages. I do not want to try to outlast you tonight.

Quite seriously, what my friend from Hamilton East (Mr. Mackenzie) is getting at is that he wants to have a dialogue and a discussion of some very important issues. I am sure his opposite number in the official opposition agrees. Hopefully, we can get on with it and have some good discussions. It will be shorter.

The Vice-Chairman: Thank you. I would like to invite the minister to begin his opening statement if there are no other queries.

Mr. Gillies: I would just like to say that I will be characteristically brief.

The Vice-Chairman: Yes.

Mr. Sheppard: It will be 43 minutes.

Hon. Mr. Wrye: I am very pleased to be here tonight. I must admit it still feels a little strange, but I am delighted at that somewhat strange feeling.

First of all, I want to congratulate my opposite number in the official opposition, a friend of mine of some standing, the honourable member for Brantford (Mr. Gillies). We both came in the class of 1981. I look forward to having discussions with him and with other members of the caucus of the official opposition.

As well, I would acknowledge and want to congratulate my friend, the member for Hamilton East at retaining a role he has filled so well over the years as the Labour critic for the New Democratic Party. I know he will have some new things for me. The member for Hamilton East is a formidable debater in these forums and I look forward to exchanging some views.

Let me begin my opening comments. First, I should introduce a couple of people rather than introduce all of the staff who are with me. The Deputy Minister of Labour, who you all know, Tim Armstrong is to my immediate left. To his left is Vic Pathe, the Assistant Deputy Minister of Labour, industrial relations division; and to his left, Dr. Ann E. Robinson, who is the Assistant Deputy Minister of Labour, occupational health and safety division.

I congratulate you, Mr. Chairman, on being the chair tonight. I know the regular chairman, the member for Nickel Belt (Mr. Laughren) is unable to be here and I look forward to him being

here so that you can be over there asking questions. I congratulate you on your role tonight and for the contributions you have made to the committee and to the Legislature in your first few months.

8:10 p.m.

The Vice-Chairman: You can take as long as you like.

Hon. Mr. Wrye: Thank you.

I was going to congratulate the former chairman of the committee as well, my good friend just down the road from my riding, the member for Cambridge (Mr. Barlow) and I should.

Mr. McGuigan: The Liberals here feel slighted.

Hon. Mr. Wrye: The congratulations continue to accrue for all of my friends. The member for Kent-Elgin (Mr. McGuigan); my good friend from just down the road from my riding, the member for Lambton (Mr. D. W. Smith) and, of course, the member for Kitchener.

Mr. D. W. Smith: Try Wellington South.

Hon. Mr. Wrye: Wellington South (Mr. Ferraro). Why am I thinking of Kitchener?

I am not unaware of the historical import of this moment. I am the first Liberal cabinet minister in 42 years to be privileged to present his ministry estimates to a committee of this Legislature. I am also the first Minister of Labour in 42 years to come to his responsibilities with a tour in opposition beforehand. Having passed through the fire of opposition, the approach of this minister is tempered with respect for the contribution, as I pointed out, of the opposition critic in influencing the formulation of public policy.

As a result, I shall depart from past practices in delivering the minister's opening statement. My statement will be relatively short. Long-winded statements merely deprive the committee of valuable time to fulfil its legitimate committee functions. The statement will also be primarily forward-looking. It will not redundantly describe, in customary numbing detail, the many existing programs operated by the ministry. Instead, it will briefly describe new programs and new proposals inviting wide-ranging, unfettered discussion upon these or any other ministry-related subjects.

The reason the statement will be primarily, but not entirely, forward-looking is to enable me to impart certain general comments at the outset about my view of the role of the minister, the ministry and the government. The view I have of my role is not that of preserving the familiar

terrain of the status quo, but of striving toward the loftier ridge of progressive change. If I may borrow the metaphor, the choice before me regarding the public policy is: whether I shall "hug its shoreline" or sail in its open seas. I choose to sail in its open seas by opting for bold, vital reform.

Early on in the government's mandate, I publicly described my function as being a minister for labour as well as of labour. This casual description evoked many telling comments of rebuke and reproach from certain sources decrying an "ever expanding, intrusive" ministry mandate.

I make no apology for my remarks. This minister is a voice in cabinet for the vast majority of everyday people leading everyday lives, whose labours are difficult, whose aspirations are modest and whose profiles are visible only against the backdrop of the everyday but deeply sustaining love of their families. These are the people who regard government as the anchor to their stable society. They look upon government as the institutional authority in their lives. The jurisdiction of the ministry correlates to their everyday activities.

He or she who has never been employed, has never been affected by the mandate of the ministry. He or she who has never operated a business has never been affected by the mandate of the ministry. He or she who has never sought accommodation, nor employment, nor access to a public place has never been affected by the mandate of the ministry. He or she who has never sought protection from exposure to toxic substances has never been affected by the mandate of the ministry. He or she who has never known an injured worker has also never been affected by the mandate of the ministry, but everyone else has, or is, or will be.

It is five months and nine days since the government was sworn in. The task of governmental and, in my case, ministerial revitalization has proceeded apace. In less than six months, I have sought to acquire and allocate additional staff and financial resources to address short-term needs and new ministry initiatives.

The total additional funding approved by the Liberal government thus far in this fiscal year is \$4.5 million over and above the amount slated by the former government in the 1985-86 printed estimates of approximately \$72 million. These additional funds include provisions for the new Workers' Compensation Board advisory program; interim funding for the Workers' Compensation appeals tribunal; the new designated

substances enforcement unit; and various immediate efforts to reduce workload pressures throughout our ministry programs.

In particular, the Ontario Human Rights Commission received substantial new funding to reduce its case backlog. This special program will continue until November 1986. It is a major priority of my administration upon which I will elaborate later in this opening comment.

As a consequence of these decisions, the 1985-86 revised expenditure entitlement is approximately \$76.5 million, which represents an approximate 6 per cent increase over the former government's 1985-86 printed estimates. To execute its mandate, the ministry will be open and inviting. On balance, the public will be able to question ministry activities as a matter of right, not as a matter of sufferance.

Three years ago, as critic in my inaugural Ministry of Labour estimates—I might add my only Labour estimates—I spoke of my view of the role of this ministry and of government. At that time we were in the deepest part of the trough of the recession. It was February and it was a very bitter winter. These were my words at the time:

"When, since the horrible Great Depression, has the need been greater for enlightened, humane policies. Government, this ministry, must respond to proven need with moral integrity and social purpose. It must respond to workers whose jobs are threatened or have been lost; to firms whose products are becoming less competitive or unmarketable; and to communities whose major industries are failing or have failed. The principles upon which this ministry builds its response will provide the foundation for all ministry response to all demonstrated need throughout the major programs which it administers. What are these principles? I suggest they are commitment and co-operation."

The principles of commitment and co-operation are no less appropriate today. They form the background for the ministry's legislative agenda. Dr. Robert H. Frank, an economist at Cornell University, has recently published a work entitled *Choosing the Right Pond: Human Behaviour and the Quest for Status*. In it, he discusses how the attitudes people have toward the communities where they live and work affect their economic behaviour.

His conclusion is that co-operation is central to economic success, but that co-operation does not occur among people narrowly interested only in themselves. For co-operation to occur, there must be shared objectives. For there to be shared objectives, there must be shared values.

It is my view that politics should implement values, not elevate them; but to implement them our values must be clear. Political questions calling for a collective expression of shared values are inescapably moral questions; questions of what is right and what is wrong, thus political solutions, are inescapably moral solutions.

To the extent that public policy is based upon our moral traditions, we should find shared values, leading to shared objectives, reflected within our public policies. Industrial productivity will be at its highest when there is an attitude of reciprocal respect between management and labour. Reciprocal respect means a commitment by labour to standards of excellence and by management to enhance worker security in the broadest sense. This commitment can only be realized through co-operation.

This brings me now to the legislative initiatives which the ministry has undertaken or is planning to undertake. In legislating new policies, our intent is to encourage economic growth and prosperity within a humane, compassionate society. The policies must conform with elemental requirements of procedural fairness and substantive merit.

The policy initiatives have been divided into six subject categories; industrial relations, workers' compensation, employment standards, occupational health and safety, pay equity and human rights.

Industrial relations: As members know, last week I introduced An Act to amend the Labour Relations Act, which will provide for first contract arbitration to supplement the normal process of first agreement bargaining. The certification of a trade union does not guarantee that a collective agreement will be reached.

8:20 p.m.

Recent experience has demonstrated that approximately 15 per cent of all certifications fail to result in a first contract. The arbitration procedures will be available following the completion of conciliation. I believe most will agree that voluntary settlements are preferable to imposed agreements. The bill I have introduced preserves the incentive to bargain, providing supplementary relief to prevent bargaining relationships from foundering where there is no legitimate reason for the impasse between the parties.

The bill contains a number of other positive features which will assist in stabilizing newly formed bargaining relationships. The determination on access and the arbitration of the

agreement are subject to stringent time limits. You will know that we talk about a decision on access within 30 days and that we have a number of other immediate time frames to put into place after the decision, should it be favourable on access, which will lead to an arbitrated first agreement within a very brief time after that. I believe that with those time limits, we will bring the conflict to a swift resolution.

Once arbitration is granted, strikes and lock-outs must terminate and employees in the bargaining unit are to be reinstated in accordance with their length of service. The bill contemplates that a mediator may be appointed to explore the possibility of a settlement in the critical period before arbitration commences. An agreement arbitrated pursuant to this section will operate for a period of two years, which will allow the trade union to consolidate its support and will permit the relationship to develop. This bill, in the government's view, is a significant advance in reinforcing the right to organize in this province.

The issue of contracting out is an important concern. Competitive pressures have caused some employers to examine alternatives to the traditional methods of carrying on business. In an effort to economize, numerous organizational changes have been implemented, many of which focus on a reduction of labour costs.

The occasional need to supplement normal production capabilities with special skills or services is recognized in contracting-out provisions in many collective agreements. It is a matter of concern where such provisions are used as a device to circumvent the existing collective agreement and to replace the bargaining unit with nonunion staff. My ministry is in the process of examining whether additional protection of bargaining rights is warranted.

The effect of technological change upon the work force is another important issue affecting industrial relations. To be competitive in a national marketplace, Canadian manufacturers must remain in the forefront of technological change. The experience of other jurisdictions has initiated the importance of a receptive work force to maximize the potential benefits of new technology.

I believe workers should be entitled to a reasonable notice of planned changes in the work force which may fundamentally affect their employment. Advance discussion of pending technological change may permit jobs to be saved, workers to be trained or adjustment measures to be implemented. Options to protect

workers from the effect of technological change are under active review in my ministry.

Turning to the area of workers' compensation, I think all members in this committee will agree that there is much work to be done and many specific concerns to address.

Workers' compensation benefits have traditionally been increased on an ad hoc basis. Members will recall that a five per cent increase to benefits was implemented on July 1, 1985. I believe injured workers are entitled to the assurance that their benefits are protected against erosion by inflation. Our deliberations concerning the appropriate index and the timing of future adjustments are concluding, and I hope to be in a position to introduce an amendment to the Workers' Compensation Act at an early date.

It is also my intention to implement additional increases to spousal pensions and allowances for dependent children and respective claims originating prior to April 1, 1985. The system of calculating these benefits has been reformed for claims arising after April 1. A special increase for existing claimants is one of a series intended to ensure that benefits under the old and new systems reach an equal level.

This fall, new adjudicative and advisory mechanisms in workers' compensation have been instituted pursuant to Bill 101. New advisory services for workers and employers, together with the Workers' Compensation Appeals Tribunal, will ensure that the interest of all parties are fully advanced and that determinations are made in a fair and objective manner.

I might add parenthetically that the Workers' Compensation Appeals Tribunal is up and running. A number of appeals have been heard, and more will be heard between now and Christmas. A significant number of full-time vice-chairmen and side members have already been named. Additional full-time members and a number of part-time members will be named very shortly.

I am advised that two full-time employer advisers are in place. A third will be added to the rolls on Monday of next week, and there will be more early in the new year.

As far as worker advisers are concerned, the latest figures I have show that we have five in place in Toronto, one in London, two in Sudbury and two in Windsor, and very shortly we expect worker advisers in Thunder Bay, Hamilton and Kitchener.

In both cases, there are significant work-load demands. On the employer side, as of the beginning of this month, there were 102 cases.

As of late last month, on the worker adviser side, there had been a total of 1,322 inquiries and 400 files opened. It is very clear that these new structures and groups are going to be well used by both employers and workers.

Mr. Barlow: How many of those 1,300 files are brand-new and how many are from existing efforts?

Hon. Mr. Wrye: I do not know. There have been more than 1,300 inquiries and 400 files opened.

These new structures are a great step forward, and with these improvements in place, I intend to proceed expeditiously with the second phase of workers' compensation reform. Experience rating is one important element of the second phase, and recognition of rehabilitated workers to reinstatement is an equally important feature.

The workers' compensation system has a dual obligation to provide income support and to assist in the rehabilitation of injured workers. I am convinced that more can be done to help workers who have been injured on the job to re-enter the work force, and I am going to be examining the options for enhancing our rehabilitation efforts.

Before leaving the subject of workers' compensation, I want to pay tribute to the work of this committee on its review of the 1984 annual report of the Workers' Compensation Board. The committee report is an impressive document which speaks clearly and succinctly with one voice on the many complex issues of workers' compensation in Ontario. We shall carefully review the report's recommendations, and that review will be an active one.

I would add, again parenthetically, that it is important and useful that this committee, in examining the annual report of the board, take a look at a number of initiatives which it can bring forward. I believe the committee's recommendations are very important; they reach right to the heart of many of the problems we all sense as members of the board. I expect to be able to share and to review with your committee, Mr. Chairman, some of our initiatives in the months to come.

In the area of employment standards, I think it is fair to say we are planning many initiatives. Let me start with unjust dismissal.

Regardless of skill, occupation or length of service, there is a universal concern shared by all workers about the security of their employment. Termination of employment is a devastating financial and emotional experience. I believe all

workers should have access to an expeditious procedure to review their dismissal.

My ministry is in the process of developing a statutory remedy in cases of unjust dismissal. Our intention would be to provide workers who do not have access to grievance arbitration with an alternative to the lengthy and costly civil action for wrongful dismissal.

8:30 p.m.

The details of the unjust dismissal procedure remain to be fully developed. In general terms, however, I believe the procedure should be available to workers who, by their length of service, have demonstrated an attachment to a particular employment relationship. I also think the procedure should be informal, understandable to the parties and expeditious.

Remedial authority should include compensation as well as reinstatement, acknowledging that there may well be circumstances where a complainant's return to the work force may not be desirable.

The second area we want to look at is pregnancy and adoption leave. It is my intention to proceed with amendments to afford greater protection to pregnant workers. Specifically, I am considering changes to reduce the qualifying period for pregnancy leave, to strengthen the rights of pregnant workers against demotion or termination and to recognize the right of employees to a leave of absence when a child is adopted.

Mr. Gillies: I have heard that somewhere before. It sounds a lot like Bill 141 to me.

Hon. Mr. Wrye: My friend the member for Brantford acknowledges, and I will respond to him very seriously, that he recognizes some of the provisions brought forward in Bill 141. They were provisions for which I believe all parties indicated a degree of support. However, I note they were not enacted by the Legislature. There is no doubt that there is a will within the Legislature on the part of all three parties to move forward with those changes expeditiously, and we intend to do so.

Mr. Mackenzie: Indeed, you might say they would have been here now if the previous government had been willing to split the legislation.

Mr. Gillies: It would have happened a long time ago if not for the New Democratic Party filibuster, but let us not get into that.

The Vice-Chairman: Can we have order, please? I would rather the members refrained from comments or questions until the minister has completed his statement.

Hon. Mr. Wrye: I apologize, Mr. Chairman. I do not want to be provocative tonight.

I want to turn briefly to the minimum wage. The minimum wage was increased to its current level of \$4 per hour effective October 1, 1984. Review of the minimum wage is in progress within the ministry. I expect to be in a position to announce a change to the minimum wage in the near future, and I believe that change will take into account increases in the cost of living and will afford employers a reasonable period of adjustment.

On overtime, the Employment Standards Act sets a statutory limit on maximum hours of work, provides for overtime and contemplates the issuance of permits for all additional hours worked beyond those stipulated in the legislation. These provisions were drafted many years ago at a time radically different from our own. I agree that a thorough review of the hours of work and overtime provisions in the act is essential.

Record hours of overtime are being worked in Ontario. Continuing high rates of unemployment naturally raise the question of whether overtime work could be converted into new jobs. I appreciate that in many situations it would be impossible for business to hire new employees as a substitute for scheduling overtime. Nevertheless, potential new employment may exist as a practical alternative to other circumstances. I am also mindful of the need to protect individual workers from being subjected to excessive hours of work.

As an interim measure, the employment standards branch has implemented strengthened standards in issuing overtime permits. We will be proceeding to study the experience of overtime in Ontario and to review the options for reform.

On the subject of domestics, the government is examining possible improvements in the working standards for domestics. Domestic workers are entitled to fair compensation and reasonable time off in return for the important service they provide to communities. The domestics' employment relationship is unique, now requiring special attention in developing more comprehensive protection.

I have had the opportunity since becoming minister, and indeed I had the opportunity before, to meet with the International Coalition to End Domestics' Exploitation, the interest group that represents domestics. Further meetings with my staff are planned. We have discussed the many different issues about working conditions which domestics must face.

The study of wages and employment conditions of domestics and their employers prepared by Currie, Coopers and Lybrand has been shared with the International Coalition to End Domestics' Exploitation. They have offered their comments, and we are now in the process of exchanging views on this study.

Finally, under the heading of employment standards, on the subject of protection of employee wages during employer insolvency, I want to mention the report tabled a week ago last Monday by Donald Brown on wage protection. The report of the Commission of Inquiry into Wage Protection brings together, for the first time, the complex legal and financial aspects of wage protection into one coherent explanation. I believe it is a first-rate effort.

I would like to tell honourable members that my ministry will be undertaking immediately a thorough analysis of the commission's recommendations with a view to taking early and appropriate action. Through federal legislation, provincial legislation, or a combination of the two, it is my intention to ensure that this important area of public policy is addressed effectively and to the benefit of working men and women in Ontario.

Let me turn to matters of occupational health and safety. The members of this committee are aware that I have set upon a course to significantly heighten the profile of occupational health and safety concerns. A heightened profile will lead to greater awareness of health and safety matters among employers, employees and the public at large. This greater awareness will ultimately lead to better enforcement of the act. I believe there is much to be done.

On November 21, I announced a comprehensive, three-pronged program in the administration of the Occupational Health and Safety Act.

First, section 145 of the industrial regulations made under the Occupational Health and Safety Act is being rewritten to provide greater protection to workers who may be exposed to toxic substances. I believe the introduction of the changes to that section will come very shortly.

This section of the industrial regulations is of central importance for the protection of workers in relation to toxic substances. In recent months, it has become apparent that this section must be made more explicit, stringent and enforceable. It is my intention to recommend that section 145 be revised so that three vital points are addressed. These are:

1. The requirement that employers reduce exposures to toxic substances through the use of

engineering controls and that the use of respirators be permitted only in exceptional circumstances;

2. The need to incorporate, by reference in the regulations, specific exposure criteria for toxic substances; and

3. The need to reduce substantially the required time period for air sampling to determine if exposure has been excessive.

These changes will enhance the ministry's capacity to secure conviction when charges for contravening section 145 are brought against an employer.

Second, a new ministry policy on the issuance and enforcement of orders under the act is being put into effect to ensure that the act is enforced with substantially greater vigour. This policy is designed to ensure early and full compliance with orders issued by ministry inspectors.

Let me enunciate four of the most important attributes of the policy: (1) orders will not be reissued, (2) compliance will be required at the earliest practicable date, (3) specific deadlines will be set for compliance with every order issued and (4) except in the most limited of circumstances, a prosecution will be commenced if the deadlines are not met.

On November 26, I met with the field inspectorate of the division to impart to them the sense of urgency and importance with which I regard orders enforcement. The administration of occupational health and safety legislation is a difficult and complex task. This sort of meeting has helped to focus the attention of the inspectorate on the very clearly defined priority of the government in this area.

8:40 p.m.

Third, the ministry's policy on prosecution is being revised to expand the number of situations in which prosecutions will be launched. The former prosecution policy, in our view, unduly restricted the circumstances for which charges were to be considered. I said this in the Legislature and I repeat it tonight: If the principal purpose of prosecution is deterrence, we ought not to limit the circumstances in which prosecution might be appropriate.

While I believe the new orders and prosecution policies will significantly enhance the enforcement of the legislation, I want to emphasize that we will amend the act to tighten up the existing section dealing with the orders and prosecutions by reducing the discretionary authority that is now in the act.

It is also my intention to introduce right-to-know legislation. In response to increasing

awareness of the potential health hazards encountered in the work place, there is a growing demand by employees and by the community at large for a more complete disclosure of toxic substances used by industry. Workers cannot adequately protect themselves if substances they are handling are not properly identified. This legislation will prescribe four essential elements:

First, warning labels to ensure that the contents are fully and clearly identified;

Second, material safety data sheets so that there is a clear statement of the chemical components, hazardous properties, precautions necessary and remedial measures for each substance;

Third, inventories of all hazardous agents to inform workers of all substances and physical agents being used or generated in the work place;

Finally, training programs to instruct workers on the effective use of the information provided through the right-to-know program.

This province, together with the federal government and the other provinces, has participated in extensive discussions with a view to developing a consistent approach to the identification of toxic substances across Canada. As Ontario introduces this legislation, every effort will be made to co-operate with the other jurisdictions to ensure that the most effective information service is developed.

To turn now to pay equity, this is a policy area of enormous controversy and enormous importance. On July 2 the Premier (Mr. Peterson) declared this government's firm commitment to implementing the principle of equal value in Ontario. His statement initiated a process of study and consultation led by my colleague the Attorney General (Mr. Scott) and me and involving representatives of business, labour and women's groups. My ministry has the responsibility of developing an equal value program for the Ontario public service.

In recent months my officials have consulted extensively with management and the unions that represent employees in the public service. On November 18 the ministry released its options paper for pay equity in the Ontario public service, and since then we have met again with the interested parties to receive their comments on the options paper. Our work is well advanced, and I am hopeful that we will be in a position to move forward with legislative action in the very near future.

At the same time on November 18 the Attorney General released a green paper on pay equity in the private and broader public sectors.

Clearly, the introduction of equal value in these sectors is more problematic than it will be in the Ontario public service, given the greater diversity of enterprises and working conditions. The green paper will provide a basis for more informed consultation with business, labour and the women of Ontario.

The final area I want to deal with in this opening statement is the area of human rights. To enhance and strengthen the protection of human rights I recently announced that the government was undertaking a three-tiered program.

The first aspect of the program entails both an addition of major resources to the Ontario Human Rights Commission and an in-depth analysis of operations with a view to effecting long-term improvements that will increase the commission's capacity to resolve cases expeditiously.

The commission will add 41 persons to its staff, 13 of whom will be permanent and 28 of whom will be on contract. I expect that, given a constantly rising work load, all or most of this latter group of 28 positions will be made permanent when the backlog program is completed. I might add that this move was taken in recognition of a backlog of about 1,100 cases, a backlog the government considered unacceptably high and frustrating to those who believed that the commission ought to move speedily to a resolution of the concerns brought before it.

The second component of the program will be through legislative initiatives such as pay equity, various forthcoming amendments to the Ontario Human Rights Code and a new approach to employment equity.

The third element of the effort will be the appointment of outstanding individuals to the Ontario Human Rights Commission itself. The first such appointment was made yesterday with the announcement of Dan McIntyre as the commissioner in charge of the race relations division. Mr. McIntyre comes to this position with impeccable credentials, experience and training. Above all, however, he brings to the position the will to give the race relations division new strength and invigorated purpose.

As I said in the House, these measures are all designed to confirm the government's unqualified commitment to the eradication of discrimination in Ontario and to ensure that this province and this government are in the vanguard of protecting the basic right of all Ontarians.

Let me conclude my remarks by returning to the theme of commitment and co-operation, which underlies all the initiatives I have just

described. Speaking in the fall before the Conference Board of Canada, the Premier identified the principal goals of this government as job creation, fiscal stability, the preservation and improvement of social programs and more efficient and responsive government. He stated, "Ontario, like all provinces, must strive to create the economic environment and conditions that nurture prosperity." He added, "We need to enhance our ability to produce, expand our ability to sell and ensure our ability to adapt."

Like all jurisdictions, we strive towards economic betterment, but unlike some, the method of our strivings is based upon an idea of prosperity that rejects as out of date the notion that economic wellbeing is found only at the bottom of a balance sheet. True prosperity is to be measured in the extent to which the abilities that the Premier mentioned—namely, productivity, growth and adaptability—are deeply rooted within an economy.

It is the responsibility of government to assist this process. Government produces the infrastructure of society—legal, educational and physical—that is the precondition for embedding the skills of production and the attitude of shared commitment within an economy, and thus for the production of wealth.

Investment must be made in people before it can be made in machines. Investing in people requires, as the Premier stated, a "commitment to meeting fundamental human needs." By "human needs" we do not mean those at the periphery of existence, in the margins of pleasure; we mean at life's very core: decent shelter, sufficient income, adequate health care, excellent education and dignified labour.

The greater the concern within society for human investment, ultimately the more deeply rooted will be the productive abilities within the economy that ensure stable, long-term prosperity.

We believe in democracy with prosperity and prosperity through humanity. However, democracy subverts itself if it subverts notions of common commitment and co-operation. Without common commitment and co-operation there is no humanity, and without humanity there can be no true prosperity.

The Vice-Chairman: Thank you. I would now like to recognize the Labour critic for the Progressive Conservative Party.

Mr. Gillies: First, I congratulate the minister on his very articulate, extremely succinct and well-thought-out presentation.

I come into these estimates tonight with any number of feelings. I hope the members will indulge me if I speak about them for a few minutes. I was delighted when my leader asked me to take on the responsibility of Labour critic for our party, although I viewed it with some slight trepidation when he asked me to assume those responsibilities last Monday and I was then informed that the estimates for the ministry started this Thursday.

Along with my assistant, Lyn Artmont, who is here, I have been working long and hard in the last week and a half to put together a presentation and the types of questions, approaches and responses that will reflect the views of our party and some new directions I would like to strike for our party and to offer the minister what I hope will be a constructive opposition during the period I am his ministry's critic. At the same time, I hope my style when I feel there is something in need of correction will be tough and pointed.

8:50 p.m.

As the minister quite rightly pointed out, we are old friends. We are not that old but we are good friends. I would even venture to say that during the last five years we have socialized together the odd time and perhaps even tipped back a glass of near-toxic substance on occasion.

As I look around the room I see many members of the staff of the Ministry of Labour whom I came to know during the period I was parliamentary assistant there. I can honestly say that I consider as friends all of your colleagues at the table with you and many others. I am sure there are other people in the ministry whom I either did not know or who are newer to the ministry whom I hope to get to know.

I thank you for your congratulations on my appointment. I have not formally congratulated you on your appointment as minister. While I will not say on the record that you are one of the better ministers of your government, because it is the sort of thing that can leap off the page of Hansard and into an election brochure very easily, perhaps I will temper it by saying that when we sit around in the morning to plan our question period strategy—how will I put this?—you are not one of the obvious targets.

Mr. Sheppard: Very well put.

The Vice-Chairman: Very well disguised.

Mr. Gillies: We will leave it at that.

I note with some pleasure the great amount of activity that has been coming out of your ministry since you assumed your responsibilities. I

recognize the work and thought you have put into many of those directions. At the same time, I will remind you from time to time of the initiatives you are announcing or have announced for which the groundwork was laid by your predecessors, particularly Dr. Elgie and Mr. Ramsay. I am sure that in a candid moment you would also want to recognize the work in any number of endeavours, be it in workers' compensation or the Commission of Inquiry into Wage Protection, that was done by your predecessors.

Mr. Sheppard: I am surprised he did not mention those two people.

Mr. Gillies: I am sure in the sense of fairness that the minister was going to get to it.

Mr. D. W. Smith: He mentioned everybody else.

Mr. Gillies: That is right. In fact, to anyone in the room who was not congratulated earlier, congratulations.

It was my pleasure to work as parliamentary assistant under Mr. Ramsay for a period of some 15 or 16 months. I say "pleasure" because many ministers of the crown do not give their parliamentary assistant a lot to do. I had the good fortune to have a minister who gave me a fair amount of responsibility. I was involved in some stages of formulating and carrying legislation that went through the ministry for a period of time. I am very pleased to have had a role in it.

Both of the portfolios I held in the government of the day, albeit for a short time, were employment related. This is an area in which I have a great interest.

Putting all that aside, I would like to address a number of the issues in your statement and perhaps open a few doors that I feel need exploration.

First, I am very glad you addressed, albeit briefly, the issue of technological change and the great impact it is having on our work force. With a third wave on our doorstep, I believe we are in need of a strong resolve if we are to maintain the social wellbeing and economic vitality of our province.

Since my recent appointment as critic I have spent much time refamiliarizing myself with the mandate of the Ministry of Labour. I am highly cognizant of the magnitude of your ministry's responsibilities. You have touched on many of them: the Labour Relations Act, the Employment Standards Act, the Occupational Health and Safety Act, the Human Rights Code, the Workers' Compensation Act and so on.

In the words of your predecessor, Mr. Ramsay, they are: "a set of principles, an

interlocking web of rights and responsibilities that are designed to provide protection and achieve fairness, equity and reasonable security for workers. The mandate of this ministry is committed to improving and enhancing the condition of the working population of Ontario. It is the function of the minister to ensure that the aspirations of workers are fully and accurately communicated to his colleagues in cabinet."

Therefore, I can only presume it is the function of the Labour critic to put pressure on the minister so he is repeatedly and consistently reminded of his obligations to the workers of Ontario.

I might add that I do not for a minute doubt the sincerity of the minister in this regard. His record as an opposition critic spoke to his commitment to equality and justice for the underprivileged. However, we must not forget that the Minister of Labour has to deal with a Premier and a cabinet who have a select élite of business people, the Liberal Economic Advisory Forum contributors, whispering in their ears.

As a matter of fact—and I will return to this issue when we talk about first-contract arbitration—it is well known that the minister was sent back by cabinet to revise his initial proposal for the first-contract legislation by his cabinet mates. It was feared they did not pay sufficient homage to the concerns of the business community. Therefore, I would commend you to continue your vigilance in this regard, remembering that those of us in the House, perhaps in all three parties, have a deep concern about the issues of importance to working people. Perhaps those of us in the three parties who share that concern are not in the majority.

We understand the difficulty of the task you have at hand. To take the two views of management and labour, differing in many real senses, and to arrive at a consensus out of those views is not an easy task. We must always ask ourselves, "Does this new initiative or proposal enhance fairness?" It is also our responsibility to ask, "Does it accomplish this without threatening the balanced growth of our economy, upon which employment and worker prosperity and wellbeing depend?"

Perhaps it is fair to say that the overriding concern in labour today on the collective bargaining scene at the midpoint of the 1980s is the conflicting goals of union and management—specifically, job security versus management efforts to achieve greater efficiency, productivity and international competitiveness. The recession and the uncertain economic situation have

reinforced these dual concerns for both labour and management. We know it is necessary to sharpen our competitive edge, but we also know that labour must not be the pawn in this particular game of chess.

In a preface to the second volume of the United Nations agency's World Labour Report, Francis Blanchard wrote, "If sacrifices have to be made in the name of economic development, they must be negotiated with all groups in society and borne by each according to its capacity." The question we must ask ourselves is, "Will we have more frequent confrontations between unions and companies as unions interpret their situation as a life-and-death struggle for survival?"

Labour faces the pressures of international competition, the growth of the nonunionized sector of the economy and the decline of industries that have in the past been union strongholds. It faces slowdowns in productivity and pressures from management for contract concessions. Thus, the role of government is now greater than ever in mediating solutions that are equitable and just. It is a time when government, labour and management must together forge a new direction from the crossroads we have reached at the present time.

Much has been written about the need for improved government, labour and management relations, a move away from adversarial confrontation, and much more will be written repeatedly, but I believe that striking out in these new directions could be the new beginning for our work force and for our society as a whole.

I understand the difficulty of the task you have at hand: to take the two views of management and labour, differing in every real sense, and to arrive at a consensus to balance the conflicting perspectives. We must always ask ourselves whether it enhances fairness, equity and equality in the work place. Sharing this responsibility, those of us who work on behalf of the people in this area of government must pool our knowledge and our resources and perhaps on occasion shelve our political and ideological differences in order to arrive at commonsense solutions that are going to benefit working people.

9 p.m.

The impact of technological change on employment underlines and confounds this issue of consensus. As we emerge from the depths of the recession into a more buoyant although still fragile economic recovery, we surface from those depths with grave concerns about technological change and its effect on employment. Those concerns have been around for a while.

We have read and heard about them since the mid-1960s, but they were minor aberrations. They were the sort of thing you read, put aside and did not not put a lot of thought into.

I credit the past government with foreseeing the profound impact technology would have on society, on the work place and on patterns of employment. We took steps that might give shape, to whatever extent possible, to the future.

The Ministry of Labour and the Ontario Manpower Commission invited industry and labour representatives to join in the Ontario Task Force on Employment and New Technology that began meeting in May 1984. The task force was enjoined to undertake an extensive study in order that the province might put itself in the strongest possible position to adjust to these projected developments. The priority of the task force was to identify the nature and extent of the impact of technology on employment in Ontario for the next 10 years. The task force, as it reminds us in its summary released recently, was not asked to recommend solutions. It left the prescriptive role to the Minister of Labour.

The minister has inherited this report, and I will ask him several questions at this point so he will have some notice of these concerns. First, how does he propose to respond to the task force report? Second, with the transfer of the Ontario Manpower Commission to the Ministry of Skills Development, who will be taking the lead in this area? Will it be the Minister of Labour or his cabinet colleague the Minister of Skills Development (Mr. Sorbara), who is my successor?

I would like to quote from the summary of the work and the findings of the task force. It states quite conclusively that we have little choice about adopting technology. It has to be done. On that, at least, there is a consensus, even among those in the labour movement who have concern.

To quote the report, "The important questions are more to do with the processes of implementing technological change in ways which effectively and fairly deal with the legitimate interests of all affected parties, such as job security, training, consultation and sharing of benefits."

I raise this with some trepidation. I am very much aware that the recent budget brought in by the Treasurer (Mr. Nixon) is the first budget in Ontario in six years that has not specifically addressed the issue of retraining for older workers. I am not talking about youth employment but retraining for older workers. It is also the first provincial budget in six years that did not bring in any specific job creation measures. We

have to keep those oversights in mind as the minister prepares his response to the report.

It is a matter of how one views the relationship of the economy and the people. The statement of the Catholic bishops a few years ago concisely defined the two views we are confronted with: Do people work for the economy or does the economy work for people? I think it is a little of both. We can remain competitive in the international marketplace, but to remain so will involve being on the leading edge of technological innovation and adaptation, with its resulting displacement of workers. As a community, it is our responsibility to ensure that those who have become victims of technological change are not victimized by it; hence my overriding concern about the whole issue of retraining.

We must co-ordinate our efforts at the provincial level between the Ministry of Skills Development, the Ministry of Labour and the Ministry of Industry, Trade and Technology, as well as with the federal government's Canadian Job Strategy. I would very much like to hear the minister's thoughts on the Canadian Job Strategy that now is being implemented by the Hon. Flora MacDonald. When I was Minister of Skills Development, I had some rather pressing concerns about the direction in which Ottawa was moving. I ask the minister again, in this whole area, which ministry will be taking the lead and co-ordinating role?

Supplementary to that, I ask whether the cabinet committee on manpower is still in existence and, if so, which minister is the chairman of that committee.

There is no question that the post-industrial age has arrived, some say with some dire consequences. I have read projections that Ontario's unemployment rate could be 20 per cent or more by the mid-1990s, especially if we fail to come to grips with this issue of technology. I remind the minister that the task force report dealt with the situation envisioned in Ontario in the next 10 years, so it is incumbent on him and the ministry to respond rather quickly, or the data to which they are responding could be out of date in the next number of years.

The task force "commissioned macroeconomic studies of the employment outcomes from technological change in the context of the overall economy. The studies revealed that: Future levels of overall employment are influenced by the way in which the productivity dividends resulting from technological change are distributed in the economy...." In other words, what happens will largely be a result of the actions of

business, labour and government in response to the change itself.

The findings of this task force dispel many widely held and cherished myths about employment and technology. The report states, "While employment dislocations will occur with technological change...the contribution of technological change to overall employment can be positive." The key words are "overall" and "can." It is a matter of choices.

The word "overall" is a tidy generalization that can serve to mask the despair and suffering of those who are forgotten in the midst of change, those who are displaced, dislocated and unemployed. I am sure the minister will agree with me that even one of these men or women is too many. We know that technological change will be adopted more rapidly in the future than in the past, and plans for new technological adaptation are extensive for 1985-86 and encompass a greater range of technologies with every passing day.

As well, we can expect extensive changes in industry sector employment growth patterns for this period. Though employment will grow in almost every industrial sector, the employment growth will take on different patterns, and it will be at much slower rates than we experienced in the 1970s. Changes in employment growth in an industrial sector necessarily alter occupational requirements, and changes in occupational employment result from industries adopting new technologies and needing different skills.

Again, we have to sort out whether it is your primary responsibility or that of the Minister of Skills Development. I hope we will be seeing some very meaningful response to this task force in the near future.

For a few minutes, I would like to turn to the Ontario Human Rights Commission. I will say at the outset that I was very pleased by the minister's statement to the House on November 22 regarding the addition of 41 staff positions to the Ontario Human Rights Commission. I am very pleased that you will be working to clear up the backlog of cases that all of us, as members of the assembly, have run up against in dealing with matters on behalf of our constituents.

I further offer you, and this is the first opportunity I have had to do so, my congratulations on yesterday's appointment of Dan McIntyre. To my understanding, and according to the people I have spoken to in Ottawa who have worked with Dan McIntyre over the years, he is an excellent man and a dedicated public servant with a great deal of experience in the area of race

relations. You will certainly have my support in that appointment. He will have my support in the work he attempts to do.

Having said that, I want to return to a matter that I raised with you in the House, what I consider to be shameful treatment by the Premier (Mr. Peterson), yourself and the ministry, of the incumbent in that post, Dr. Bhausaheb Ubale. I want to be quite pointed about this. The commissioner for race relations, as you and the Premier indicated by your presence at the news conference yesterday, is a very important post within the Ontario Human Rights Commission, a senior post dealing with hundreds of thousands of ethnic people across the province, particularly visible minorities.

I find it unacceptable and shameful that Dr. Ubale, from the day your government was appointed in mid-June until the day he was notified of his dismissal, was unable to secure a meeting, either with the Premier of Ontario or with you as minister.

9:10 p.m.

I also feel it is shameful that after eight years of serving the province as commissioner for race relations, by many accounts breaking new ground and doing a lot of good work out in the field in this area, he was told rather summarily that his contract was being discontinued and was given two weeks' notice of that fact.

Of course, he is a contract appointee and the minister can do that. The Premier can do it. However, I find it passing strange for the Ministry of Labour, of all places, to take a senior official of the government and afford him no more than two weeks' notice of his imminent dismissal, knowing that as a contract employee he would require time to seek new employment and make plans for his life, and knowing also that, as a contract employee, he would receive no severance package, benefits or anything else.

I am also concerned about the fate of some of our race relations officers out in the field. I heard, for instance, of a gentleman who has been doing some excellent work on behalf of the Ontario Human Rights Commission in Brantford, Scouter Ward. He is also finding that his contract is exhausted at a time when he has been on the verge of building up new programs, bringing the network of multicultural groups within my community into some form of co-operation.

Mr. Lupusella: What a surprise.

Mr. Gillies: Yes, it is shocking.

Mr. Barlow: It is appalling.

Mr. Gillies: Do not get me going. This is at a time when he—with the personal intervention, I might add, of Dr. Ubale—was solving around the table problems between the Sikh community and the Brantford police, and the Sikhs and their neighbours in our community.

I want that work to continue. I have every confidence it can do so under Dan McIntyre, but I am looking to the minister for some answers during these estimates. I want some answers about the treatment of Dr. Ubale, both as commissioner for race relations and also as an individual contract employee of the government of Ontario. Let us leave that alone for a second.

I guess I will leave it at that. In this much-heralded open government, I found it very strange that the commissioner for race relations could not meet with the Premier or his own minister for a period of six months. I might add that he met frequently with the predecessors in your post.

I want to talk about the training and retraining of older workers. I know I am again raising an area that is a split responsibility between yourself and the Minister of Skills Development. I return to the Ontario Task Force on Employment and New Technology, which emphasizes the urgent need for adequate training and retraining programs for workers.

Last February at the Liberal Party's annual meeting, Premier Peterson pledged that a top priority of a Liberal government would be to initiate actions that would combat joblessness among workers displaced by changing technology in the marketplace.

Your government's Futures program was brought in to address the youth unemployment and retraining problem. When I was Skills Development critic, I said that while we could quibble about the funding for that program, I had looked at its design and I thought it was pretty darned good. I commend the government for pressing ahead with better co-ordination and rationalization of those programs, which is work I started back there.

However, your government has failed totally to address the plight of workers over the age of 24. One of the most, if not the most glaring omission in Mr. Nixon's budget was the failure to initiate any retraining programs for workers over 24. As I noted earlier, it is the first provincial budget since 1979 to make no reference whatsoever to either retraining or job creation for older workers.

I do not have to tell the minister, because these are things he used to raise in the House so

frequently as critic—dare I say, so articulately? He is aware of several major plant closures, including a 1982 survey of terminated workers conducted by his ministry, which identified age as a determining factor with regard to re-employment prospects.

Older workers consistently experience prolonged periods of unemployment once they have been displaced. Eventually, they may drop out of the work force.

I can tell the minister that I do not speak on this question in any way academically. My father was in his late 50s when the Westinghouse Canada plant closed in Brantford. My father lost his job and was unemployed for a prolonged time. This was long before there was any severance protection for such people under Ontario statute. People got the golden handshake and were out the door in those days. They are days we never want to see return, but more has to be done.

I remember what our family went through in the early 1970s. As one example, after that plant closing, my father never had another job that paid half of what he had made at Westinghouse. He is a very sick man now, but he left the work force a very frustrated, disillusioned and bitter man. I do not think we want to see that happen to further generations of older displaced workers.

Older workers suffer many disadvantages in seeking re-employment. Their educational level is lower than that of younger workers for the most part. Thirty or 40 years ago, people did not stay in school or in training for as long as they do now. Employers hesitate to hire and train older workers because they do not think they are going to get their investment back out of them. It is a very serious situation.

I also want to touch on the whole question of severance pay. The minister and I have discussed this privately before. I will say on the record again, although I have raised it in the House, that there are people who left the employ of Massey-Ferguson in Brantford as long as four years ago and they know, I know and the minister knows they are not going back. We all know that company has rationalized its operation and that hundreds and hundreds of jobs were lost.

Mr. Hayes: Did you just realize this?

Mr. Gillies: No; I have realized it for a long time, thank you very much. I raise it again because the minister still has an act in place that does not recognize that as long as the company calls it a temporary layoff, they are not going to get a severance package. I talk to workers constantly who want to be severed. That is what we have come to for some of these people. They

want their cards. They want the company to say, "You are fired." That is when they are going to get something for their families and it is something they have wanted for a long time.

We talked about the Massey-Ferguson case. It has been tied up in the tribunals and the courts for lord knows how long. It is time for the minister to act. Now he is running into the same situation with the closing of the Inco mine in northwestern Ontario. Those workers, and they know they are not going back, have been told: "This is a temporary layoff; goodbye. There is no severance for you because we might call you back some time."

It is playing with the livelihoods of those workers. There are a couple of loopholes in the severance pay legislation that I would like to see the minister address.

Our party proposed in June the establishment of a fund to facilitate employment transition and adjustment, a fund to provide for retraining and relocation or to be used as bridging moneys so that older workers could be encouraged to take an early pension. I ask the minister what he intends to do to address the plight of these older workers. Some action is desperately needed.

In Ontario there are more than 350,000 unemployed workers over the age of 24 who were largely abandoned and left without any hope of concrete support or plans by the budget of the Treasurer. I am eager to know who is going to take the lead on this, the Minister of Labour or the Minister of Skills Development, and who is going to address that very serious issue.

9:20 p.m.

I talked about part-time workers. I will return again to the task force that focused on so many concerns of working people, such as the rights of part-time workers. It addressed the concern that the inferior pay and benefits packages of part-timers constitute inequitable treatment of these workers. This situation creates a substantial cost incentive for employers to restructure staffing arrangements in favour of part-time work. As a result, full-time employment opportunities are eroded. We are seeing it yet again because of the situation with A and P and Dominion Stores.

Part-time workers account for about 15 per cent of the work force. They lack training and promotional opportunities and part-time jobs overall pay only 79 per cent of the wages that full-time jobs pay. The task force report indicates that part-time employment will continue to increase both in absolute terms and in relation to full-time employment. It also notes that a large

proportion of the part-time work force are women and I am sure this is of considerable concern to the minister.

The growth of part-time workers preceded the recession but the downturn in the economy caused many employers to replace full-time workers with part-time workers to give the employer more flexibility. Even though the economy is more buoyant now, the use of part-time workers is bound to continue because companies are getting leaner and they are looking for more flexibility.

What is the minister's response to this trend and to the concern that part-time workers are being treated unfairly? We debated some of the issues related to this back to 1981 and I recall debating the fate of part-time workers with regard to pensions when I was on the select committee on pensions. The member for Hamilton East (Mr. Mackenzie) was on that committee too.

Mr. Lupusella: Then you sold out.

Mr. Gillies: No, I never sold out. You know that.

What are you going to do for these part-time workers? Do you intend to legislate a set of minimum standards for part-time workers? The New Democratic Party is in favour of mandatory benefits for part-time workers, including pension and equal hourly pay rates. Our party has suggested that amendments be put in place in the Employment Standards Act to provide for payment to part-time workers on a pro rata basis of the employment benefits package available to full-time workers.

This issue was discussed at the last meeting of the federal-provincial labour ministers and it seems to have a very high national priority. The vast majority of part-time workers fall within provincial jurisdiction. For the most part, they do not fall in those categories of employment under the federal legislation, although many bank employees are part-time. That will require federal action.

It seems clear employers will have to learn to live with the reality that part-time workers are entitled to equal pay and that benefits cannot be seen as an optional extra bestowed on a few workers but rather are an integral part of the pay package. The Wallace commission recommended a new labour standard that would provide prorated fringe benefits and pension plans for part-time employees.

Will you introduce such legislation in Ontario? Have you come up with a policy paper on the issue to address the concerns of business people,

especially small business people who have a resistance to legislative rights for part-time workers, and unions which are as preoccupied with resisting the expansion of part-time workers as they are with the issues of benefits for part-time workers?

You are moving on a number of fronts. I would recommend this to you as a matter that could benefit from your early attention with widespread support among the members of the Legislature.

Another prickly issue that I would like to have your view on is mandatory retirement. We are all aware that mandatory retirement is a difficult issue, one with humane and noble arguments that can be made on both sides of the fence. On the one hand, pressures for early retirement of workers have increased because of rising unemployment and a shrinking labour market. Indeed, "job security" is the key phrase in union circles these days and early retirement is linked to that goal.

However, the human rights issue is the most potent argument against the maintenance of current mandatory retirement provisions. Discrimination on the basis of age may no longer be acceptable to an ageing population and, by the by, may no longer be acceptable under the Charter of Rights and Freedoms. A sense of purpose through employment is a key factor in maintaining an overall sense of wellbeing among many older Ontarians.

Both labour and most employer groups are opposed to a legislative ban on enforced retirement at age 65. Employers fear that uncertainties associated with an indefinite retirement age are real, that the uncertainties are of some danger to them, while unions are concerned that a ban will jeopardize the jobs of younger members of the work force or younger people trying to get into the work force.

Unions have pressed to have the retirement age lowered and pensions improved. Early retirement with an adequate income has also been seen by unions as an avenue to more leisurely living after long years of work, but these considerations must be balanced against the potential injustice of a system that forces out capable workers according to age.

We currently await the outcome of the Supreme Court's judgement on the appeal of the Manitoba teachers. However, I would like to hear the minister's views on mandatory retirement if the court feels it violates the Charter of Rights and Freedoms.

Given the fact that we are moving towards a diminishing trained work force, how would you address this problem? Allowing people to stay on may be necessary, but what about the necessary place for young people in a reduced work force?

It has been suggested that if legislation and experience in other countries are any guide, it will not be a question of whether mandatory retirement will be abolished, but when and in what form.

If employers are no longer able to use age as a retirement prod, will your ministry be developing tests of competence or other yardsticks to ensure that older workers receive reasonable and humane consideration without jeopardizing a reasonable expectation of productivity to the employer?

I do not pretend for a minute that is an easy issue but, in the big scheme, it is one with which you are going to have to come to grips.

Hon. Mr. Wrye: I keep waiting for your position.

Mr. Gillies: One of the luxuries of being in opposition is that I do not have to answer the questions any more but I can ask a lot of them.

I would like to address the question of plant closures and severance pay being paid or not paid to laid-off workers. Much debate, both during the presentation of estimates as well as in the Legislature, has gone on regarding the dismal record of plant closures and the attendant human tragedy that follows layoffs.

I note that in last year's Ministry of Labour estimates your fellow member and then Liberal critic Mr. Mancini spent a considerable amount of time discussing plant closures, especially the loss of 500 or more jobs in Barrie due to the closing of the Black and Decker plant. I have had a very personal concern since then with the closing of White Farm Equipment in Brantford and the loss of 800 jobs.

Mr. Mancini at that time spent considerable time berating the minister on the size of the plant closure and employee adjustment branch of your ministry. He noted the inadequacy of a branch with five staff to deal with their manifold responsibilities, providing employees affected by permanent job loss, especially due to plant closure, with professional assistance in the areas of job search techniques, career assessment, access to retraining, retirement counselling, financial counselling and on and on.

Hon. Mr. Wrye: That was unfair of him, was it not?

Mr. Gillies: It was absolutely incredible. I am telling you I enjoyed reading Remo's comments

this year as much as I enjoyed hearing them last year, perhaps even more. He felt at that time that the resources allocated to the plant closure branch were woefully small and could in no way deal with the nearly 17,000 people who lost their jobs in the year 1983.

I notice in this year's estimates that under 1985-86 ongoing activities and initiatives, the branch is taking on added responsibility in examining more effectively the needs of older workers affected by plant closures, especially in the areas of job counselling, skills upgrading and entrepreneurship. You are seconding the services of one more counsellor to assist in the administration of your retirement counselling program and in the development of new initiatives.

I cannot imagine that this is sufficient to satisfy Mr. Mancini's concerns. Only one more person? Already in 1985 the number of workers affected by partial or complete plant shutdowns is nearing that figure of 1983. I would like to know what plans you have to be able to more effectively respond to your own party's criticism of this branch of your ministry.

9:30 p.m.

It is also known that the plant closing branch, I hope with due charity, is batting near zero in its efforts to have companies reverse their decisions to shut down operations. Obviously it takes a couple of years to see if a new branch of a ministry is going to be effective, but it would appear that even the other roles of this branch have not been too successful.

In saying that, I am not criticizing the work the employees of that branch are doing, I am sure they are doing their best. The question is whether the structure is appropriate, whether the legislation is appropriate and whether the needs are being met.

Of the workers displaced, only about 50 per cent take part in the counselling programs offered by the branch and of those who do take the counselling, about 20 per cent go on to retraining programs.

It has also been shown that while the branch program was successful in the early 1980s, the joint labour-management committee that takes an inventory of individual skills and canvasses other employers in order to place workers, has been less successful recently than it was in the early 1980s.

Has any thought been given as to why this might be and, further, have you any proposals to remedy this tendency and make the program more meaningful and effective?

Despite the upturn in the economy, plant closures are not a nightmare that is behind us. While in the past, especially during the period of the recession, most plant closings were related to insolvency, more in recent days have been shuttered as a result of decisions to rationalize production.

The tendency shows, too, that these closures have hit workers in a wide spectrum of companies that deal with everything from electronics to auto parts, textile plants, mines, supermarkets, steel companies, farm equipment manufacturing and specialty manufacturing. These closings take a profound toll in human terms. Workers become demoralized and their physical health can be harmed by the attendant stress.

In communities in which a plant that was shut down was a prime employer—I think both the minister and I personally know a bit about that—the communities themselves are hurt, the effects spill over into secondary industry and suppliers; things as widespread as the loss of tax revenue to the municipality, putting a further strain on the municipal mill rate. These shutdowns do not affect only the plant and its employees and their families; the effects go much beyond that.

At present, under the Employment Standards Act, notice of a layoff is required only in the case of plants employing more than 50 workers. The minister knows my personal feeling—and now, as Labour critic, I am going to darned well make it a more than personal feeling—that the 50 number should be changed or eliminated.

From 1982 to the end of 1984, 172 plants in that category closed in Ontario—the category being fewer than 50 workers—putting 21,000 workers out on to the street. There are no figures on plant closings affecting more than 50 workers.

Interjection.

Mr. Gillies: The advantage I have of coming into estimates the week after my appointment is that I did not have time to caucus a lot of this stuff.

Hon. Mr. Wrye: Did the member for Cambridge (Mr. Barlow) deliver his statement on this to you?

Mr. Gillies: No, on something as fundamental as severance pay for displaced workers, I do not think you will find there is any dissent. I think the minister, in all good faith, brought in the act with the 50 cutoff, and I think the minister who brought it in would now admit—I do not want to put words in his mouth—it has not worked and it should be changed. I was aware of some

proposals to that effect rolling around in your ministry before I even left.

Mr. Mackenzie: This conversion is fantastic.

Mr. Gillies: I have to tell you, Bob, if it has to be changed, it has to be changed, and I do not care about the baggage. We know that the trade union movement has been calling for stringent legislation to control plant closings.

Mr. Lupusella: Phil, will you leave us some space to operate? The art of politics is unbelievable.

Mr. Gillies: Tony, I am quite enjoying it.

The trade union movement has been calling for stringent legislation to control plant closings, including a justification process before a tribunal and up to one year's notice. There is minimal legislation in Canadian jurisdictions dealing with plant closings. Ontario is one of the very few jurisdictions in North America that has any requirements for severance pay in the case of plant closings. We require notice of eight to 16 weeks or pay in lieu of notice in cases of layoffs of more than 50 persons within a six-month period.

I would like to have the minister's position on a justification process before a tribunal. I would also like to have his position regarding advance notice of plant shutdowns. How long an advance notice would he be considering?

Our party recognizes the insufficiency of the Employment Standards Act's severance pay provisions and their limited application to many long-service workers who are permanently displaced from employment, since payments are restricted to those terminated in plant closings involving at least 50 workers.

I think the minister is about to reach for his pen and scribble a note to himself about the government of Canada. I fully expect that.

We felt some relaxation in the eligibility requirements would improve the climate for constructive economic change and alleviate workers' anxieties regarding the associated loss of jobs. Clause 40(1)(a) restricts eligibility. It also excludes from coverage workers with fewer than five years' service, workers terminated in reduced operations rather than a plant closure, and workers terminated in groups of fewer than 50 employees in a six-month period.

Again, it is a serious loophole in the legislation. I have personally been involved in my riding in a case where a plant closed down an operation and let the workers go in groups of 40 or so—and we have seen it more than once in the province—so they did not fall under the severance pay regulation. I believe the regulation is unduly

restrictive. The present limit renders ineligible many workers involved in quite significant closures in medium-sized and large-sized businesses.

Hon. Mr. Wrye: You were not in the House that night for my amendments, were you?

Mr. Gillies: Did you move some amendments? Listen, I have had a week. Give me a break. If you move some amendments, please send them over.

Hon. Mr. Wrye: I meant four years ago.

Mr. Gillies: Okay, but now you can do something about it.

Is the minister preparing amendments to the Employment Standards Act to provide severance pay to workers terminated in full or partial plant closures involving fewer than 50 workers?

I just remembered the minister's amendments and he is right, I was not in the House. I had disappeared.

I would like to ask the minister if he is intending to retain the eligibility requirement of five years. There is the consideration of the impact of such amendments on small business operations. I would like to hear his thoughts on that. There is also the consideration that the nature of the work force has begun to undergo very dramatic change and we have to understand that changing employment, moving from one job situation to another within a five-year period, is becoming more and more common in the work force.

Another issue is wage protection in times of insolvency. Here the minister gets a bouquet and I am going to cut this down to a few sentences. I have read the report. I think the direction being recommended by Don Brown is the right one. I urge and encourage the minister to move on it and to continue his efforts to get the government of Canada to take action on this matter across the country. I might return to that in a few moments.

I wrote out some stuff here about the range of options available to the minister and so on, but I will boil it down to saying I have had a look at the Brown report. It is pretty good stuff and I hope the minister will be acting on it.

The question then becomes when. When is the government going to act to implement the commission's report and start protecting the wages of the workers thus affected?

I know I am speaking longer than the minister did but I hope he will indulge me for a few more minutes.

Mr. Mackenzie: How much longer?

Mr. Gillies: Some of Mr. Mackenzie's opening statements have been fairly lengthy.

Mr. Barlow: We have not heard his yet.

Mr. Gillies: I look forward to it.

Hon. Mr. Wrye: Conversions on the road always take a little longer.

9:40 p.m.

Mr. Gillies: I assume that was just tossed out generally.

I will be looking during the estimates and will be questioning the minister for some comments and some further enlightenment on the question of first-contract arbitration. I will not get into it in any depth now, but I think the minister will have to look at this bill very carefully, probably more than any other issue. I have been meeting with interest groups on both sides of the issue intensively in the last week and I fear that in trying to compromise on the issue of first-contract arbitration the minister has brought in a bill that is not going to greatly please anybody.

I worry about that because I know what the minister is trying to do. I do not think any member of the House wants any more Eaton's or any more Visa strikes, although that one is under federal jurisdiction. We are all concerned about the disruptive effect these first-contract disputes have on the labour force. These protracted strikes are destructive to the labour relations climate in the province.

My concern, however, is that in falling between organized labour's position of unimpeded first-contract arbitration on petition of either party and the position we find acceptable to the majority of business people of first-contract arbitration only after there has been a finding of bad-faith bargaining, the minister is not going greatly to please anybody.

I can tell him, and he knows this, that the labour leaders I have met with in the last week are not very happy with his bill. They feel it falls significantly short of what they would like.

At the same time, while I am very aware of his feeling, and I do not think it an inappropriate frame of reference for a Minister of Labour also to feel he is the minister for labour, he is a voice of the working people in cabinet and we recognize that. Keeping that in mind, I feel he has a responsibility to put to rest the fears in the business community about what first-contract arbitration legislation is, what it will do and how it is not, as is widely feared, going to do severe damage, especially to the small business community in the province. The minister has that responsibility.

I do not believe the bill is going to be called before the House before Christmas. At least I cannot envisage it with the legislative agenda being what it is. The minister has some time to take his bill and perhaps refine or amend it as he may be advised from both sides of the House and from elsewhere. By the same token, I hope he would see it as part of his responsibility to set in motion a program of consultation and explanation to the small business community. In so doing, he could put to rest an awful lot of fears that exist out there.

I would further suggest that in so doing, if he could help clarify what he is trying to do and put some of these fears to rest, he could make it much easier for most, if not all, members of the assembly to accept some form of first-contract arbitration legislation. I put that suggestion before him in all good faith and with no hidden agenda. I understand what he is trying to do and I want him to do it with the widest possible public support.

With respect to equal pay, I have read, as I am sure most members of the House have, the green paper, a reasonably good body of work. It certainly laid out what is going on, what the history of the thing is in Ontario and what the status quo is in other provinces that have some form of equal value legislation. I know a bit about this. Having carried Bill 141 for ever, I hesitate to think how many months—

Hon. Mr. Wrye: It just seemed that way.

Mr. Gillies: It just seemed like for ever. I cannot remember how many months we spent on that bill.

Mr. Barlow: Except for some filibustering on some people's part, we would have got it through.

Mr. Gillies: I do not want to get into old wounds. In the course of that debate, we covered just about every aspect and every argument of equal value legislation that could ever come forward.

I remember very spirited debate some nights with our late colleague and friend, James Renwick. Lord only knows, he knew as much about equal value as any member of the assembly. Sheila Copps was around for part of that debate, too.

We all know the arguments, but the minister is committed, in the accord with the New Democratic Party, to bringing in legislation during the first session of this Legislature. That session, we expect, will continue into the spring. I have a couple of questions for the minister in the course of the estimates.

First, what is his timetable? When are we going to see legislation so that the three parties can examine it and determine whether it is satisfactory and supportable?

Further to that, what does the minister have in mind by way of a public education program to sell the concept of equal value? Most members of the assembly voted for the principle of equal value at the time of the Copps resolution some years ago. Again, in consulting business representatives and just doing a cursory read of the press clippings, the Minister of Labour and the Attorney General (Mr. Scott) still have one heck of a job to do convincing many elements of Ontario society that such legislation will be beneficial. Frankly, they have got to convince everybody from the *Globe and Mail* to the *Toronto Sun*—

Hon. Mr. Wrye: To the member for Brantford.

Mr. Gillies: You do not really have to convince me. You have to convince a lot of people, though.

I also think you should be reminding the people of Ontario that equal value is not a panacea. It is not going to close the 37 per cent wage gap. The minister and I and all the rest of us here know that. Every study that has been done would indicate that the legislation in and of itself would close the wage gap, perhaps by five to seven per cent. There are much bigger problems that have to be tackled, both in legislation and in the educational field, to close that wage gap.

A much larger part of the problem is in education. It is in sexual stereotyping when young people are going into courses; it is in inadequate levels of training and higher education among women, and all of those things.

I do hope that as you pursue this question of equal value you address the whole issue, because there are going to be a lot of people out there very disappointed when equal value legislation comes into force and they find that the wage gap does not disappear—not only overnight, but in six months or a year or 18 months. It is a very big issue. I think you need a lot of public education there.

We have talked about overtime quite a bit in question period. The minister has had my perennial supplementary to my colleagues' questions about three times now. This is an issue I have had some concern about for a couple of years. I saw it in my own riding.

I remember one day in Brantford having more than 40 women from an auto parts firm in Brantford crowded into my constituency office,

most of them standing because we did not have enough chairs. They had just been laid off some weeks previously and then had found that the company was running a full shift of overtime one week later. The minister may even know the company. It was United-Carr in Brantford.

Those women were frustrated and angry. They thought they were doing their work. They had not been guilty of any particular misdemeanours. They had not been cautioned by the company that they were in any way inadequate as employees. Out the door they went, only to turn around and see some of their colleagues working full shifts of overtime.

The minister has said in the House, quite rightly, that this is a complicated issue, that business employers have some legitimate needs in terms of maintenance overtime, special projects and so on that require somebody's skills for a greater period of time than 48 hours per week. I accept that, I think any thinking member would accept that; but that is not what I am talking about.

9:50 p.m.

I am talking about full shifts of overtime when people are laid off and unemployed. With all respect to the business community, I think my feelings on this issue are very well known in my community. I think something has got to be done about it. I really hope the minister will be keeping the commitments he made to us in the House to move expeditiously on this matter after some consultation with the business community.

Mr. Ferraro: When were the women in the office?

Mr. Gillies: It was about two years ago.

I will leave it at that. I know I have talked for a long time. I thank you for your indulgence.

Mr. Sheppard: It was an hour and three minutes.

Mr. Gillies: Good Lord. I wanted the minister to know, as these are my first set of estimates as the critic, some of the issues about which my party and I are concerned. I also want to emphasize that I very much appreciate his comments in his statement that he sees the input of his critics as a positive thing and something that can lead to policy formulation and amendment.

I welcome that attitude. Despite the fact that I will be making some pointed criticisms, both during the estimates and in the House, I hope he accepts them in the spirit they are offered and in no way personally. I look forward very much to

working with him to address some of these issues.

Mr. Mackenzie: We have had 40 minutes for the minister and one hour and four minutes for Mr. Gillies. That is not bad. We will try to keep it a bit under that in the remarks I have.

The Vice-Chairman: You have no choice.

Mr. Mackenzie: We can always continue next session.

Hon. Mr. Wrye: I will be disappointed in you.

Mr. Mackenzie: I want first to take the opportunity to congratulate the new Minister of Labour and wish him well. I do not think I have done that until now. Some of the words I have heard here tonight and the comments he made in his opening statement are encouraging. His remarks about bold and vital reform, and that the government has to respond to proven needs, give me hope that maybe we can make some slight improvements in a number of pieces of legislation, including that regarding first contracts. I think they are needed.

I would like to remind the minister just how close we are to the jungle with respect to workers' rights. I do not know a better example of that than what has happened in the VISA situation with the Canadian Imperial Bank of Commerce. If we ever needed a reminder to working people in this province of how quickly we can be subverted, that was a classic.

The problems the ministry has inherited are immense. Unfortunately for workers, many are as a result of the former government's inability to come to grips with problems we have been raising for years.

I am quite encouraged by the new critic for the Progressive Conservative Party tonight, because it is almost a total change from the battles we fought over the years on just about every issue he raised, although I notice he was careful in his wording on some of the points.

As far as I am concerned, and I have said this in previous estimates, there was an inherited unsympathetic bias about workers on the part of the former government that did not allow problems to be resolved and, even more destructive, in many cases rejected any thought of new and constructive initiatives. Some of the things we are seeing in this new government are things with which we got nowhere in the previous sets of estimates and in the House in trying to bring about changes in legislation.

It should be recognized that the kind of mentality we had, which is one of the reasons

there was the political change there was in this province, coupled with the very negative restraint legislation, to which unfortunately the Liberals were also a party along with the Progressive Conservatives over the last few years, has created a situation with labour that does not always bring the most positive response.

The end of some 42 years of rule by the previous government, coupled with expectations of which he is aware that were raised by some of the accord items, and some hope that maybe there would be other goodies in the pot as well, give this minister—I say it to him frankly and constructively—a rare opportunity to win back a measure of trust and respect from organized workers, trust and respect that have not been evident towards government for some time in Ontario. I really hope the minister is prepared to initiate progress. I hope he is able and prepared to be an advocate for better, safer and more harmonious relationships with labour, and more productive and rewarding conditions for workers.

I made that point to the previous government. I can remember a couple of sets of estimates where I had quite a go-around with previous ministers always rejecting their role as being that of a workers' advocate and friend, arguing—and fairly strenuously in some of the estimates—that the role had to be that of a neutral mediator in a much broader perspective.

I always found plenty of support for the business community and private interests in the daily operations of a number of ministries, and I understand that coming from governments that we have had. Never, however, at any time under the Conservatives—and there were two or three ministers who were themselves decent feeling people—did I find a belief that any real ongoing advocacy with respect to workers' rights and interests was important and was their role.

I used to read the preamble of the Labour Relations Act and I still read it—it may sound a little strange—to this day when I get a little discouraged. I remember raising what it was all about with regard to workers' rights to organize in Ontario. After I had read the Labour Relations Act, I would then start looking at my desk and at the disputes that were going on, the police intervention on picket lines, the difficulty getting safety and health orders complied with, the re-issuing of orders and no action on them.

I like what I see in the words, but I am cynical enough that I am going to wait to see whether it is really meant. I like the direction the minister is talking about; the lack of worker protection

during bankruptcy actions; the desperate efforts of workers in a number of situations, such as Eaton's; the VISA workers at the Canadian Imperial Bank of Commerce; the *caisse populaire* workers in Kapuskasing and other places and the earlier disputes before that; the efforts to try to get a first contract and the plight of older workers in plant shutdowns.

I looked at what was going on around me after I had read the preamble to the Labour Relations Act and I said, "What we are doing here is making a mockery of the act." I have said that in some of these estimates before and, unfortunately, that has been the case in Ontario all too often.

I stress again—and I wrote this before I heard the minister's opening remarks here tonight—that he should take advantage of the opportunity he has and not fritter it away with a lack of response or an inadequate response to the problems that are raised. I advise him, above all, do not be a bloody conservative from here on in.

Mr. Barlow: On a point of order, Mr. Chairman.

The Vice-Chairman: You insulted the man and should take it back.

Mr. Mackenzie: I would be remiss if I did not acknowledge the efforts to help that I received when I called upon senior ministry staff with various labour problems and disputes. The deputy minister, Tom Armstrong, has been helpful on a number of cases, even if it just brings back to me a nasty letter from a police chief who said I should not be on a picket line someplace where we had some problems. I also found that Vic Pathe has been helpful when we have wanted to raise issues in conciliatory arbitration.

I have also found, as I have said a number of times with respect to employment standards problems, that at least the minister makes a real effort to go the extra mile in trying to resolve some of the problems that are raised with these people.

I do, however, sense a building up of problems. I am sure the problems in most cases lie with the structure, the philosophy and the weakness of legislation in some cases in Ontario and not necessarily in the commitment of staff. The minister holds the responsibility there.

Let me generally outline some of my concerns in broader terms with just a few comments, and then as we deal with individual votes I can in some cases elaborate a little more on some of the things I want to raise.

If we start with the Ontario Labour Relations Board, I will say that it is suffering the fate of all too many of our boards and commissions. We

have some real problems with the board now and we are going to have to deal with them and deal with them soon, because it is a cornerstone of worker trust in Ontario.

Basically, some good decisions did come out of the board, but there is a deterioration of respect for the board that bothers me no end. It is threatened, among other things, with *legalese*. Frankly, it may be that the Charter of Rights has opened up a can of worms that does not always allow us to deal with the best interests of workers in some situations.

The procedures of the board, as the minister must be aware, are getting more legalistic almost by the day. These days each party to a dispute has a lawyer. In some cases, particularly in construction, there can be eight or 10 parties involved in the dispute.

10 p.m.

There are cases before the board that have taken two, three and three and a half years with still no decision. This is simply unacceptable if there are going to be decent relationships in this province. Cases going to the courts concerning the denial of natural justice arguments are, in my opinion, ridiculous, and I think they are undermining the board; but it is happening.

The scheduling problems for dates of hearings are out of hand. I think the chairman of the board should be scheduling hearings to deal with cases in one, two or three months. Certain days are going to have to be pre-empted to set the time aside for the hearings if we are going to deal adequately within an acceptable time frame with complaints that come before the board.

I am also wondering if a good case cannot be made for going back to full-board hearings called by the chairman at least once a month to receive progress reports and identify some of the long delays that are there in legislation.

I think things like standardized panels, particularly in construction but maybe in some other areas as well, are useful arguments that could be made in regard to what is going wrong at the board. I would spend a little time right off the bat on this because that is really the base on which we build with respect to labour relations.

With about 40 cases slated a week, there are a number of things I wonder about. I wonder why we still do not have a labour person as one of the vice-chairmen of the board. With one exception, they are all lawyers.

I also wonder why applications for certification, which are the beginning of problems and the beginning of actions before the board, have to be tripartite, which is another argument I have made

in all seven sets of estimates in which I have now participated, along with the fact that I think the application date should be the terminal date.

A chap, Brando Paris, came up to me at a dance this past weekend and said, "Bob, I have now been involved in the last short period of time in organizing five different plants in the industrial ghetto in downtown Toronto. We got a majority of cards in every one of them, and in every case the petitions and the intimidations and the counteraction starts after the notice is posted."

To me, there is no right under the Labour Relations Act for management to play a role in that application once the workers have decided and paid their dollars and signed their cards, other than to verify the unit itself. Right there you would stop many of the problems we have.

I do not think management should have the right, as they now have pretty freely, to campaign. They cannot threaten, supposedly, but they are able to discuss and dissuade; and anybody who knows employer-employee relationships knows what that can do.

I can remember well in the days when I was organizing in Windsor. During a period of a little better than a year, I organized some 13 back alley shops. We had petitions in at least nine or 10 of those 13 cases, and I can recall we were able to get them knocked down by Judge Finkelman in every case as management-sponsored petitions.

Management has a little more finesse now. We run into lawyers like Stringer and some of the others; and let me tell you, it is getting more difficult all the time. The fights are getting longer. They are getting more bitter. They are tying up the procedures of the board, and the government simply has to do something about it.

I really do wonder when I look at cases. One case where the argument was just finished—24 days of hearings, three years and six months later; and we do not have a decision yet. There is no way I can justify that no matter how I take a look at it.

The other thing, I think, is that we are going to have to work out—I may seem to be arguing against this a little later when I deal with a specific problem one union is having—to work out some ways to deal with interunion jurisdictional disputes, because that is another problem that is now taking up a hell of a lot of the board's time. I think, like doctors and lawyers, there should be some way for the labour movement itself to handle this. We may also have to set some guidelines because there are cases where it

is impossible, it would appear, for them to deal with it themselves.

I will leave, for the moment, some of the problems we had with the board, but I think it is one of the more crucial areas we are dealing with. I also want to say that the problems of the Ontario Human Rights Commission speak to the same issue in many cases—the long delays. While you provided for more staff, I am not sure that is the total problem.

Quite frankly, I think the Ontario Human Rights Commission needs a review and possibly a complete shake-up. I am not just sure some of the top staff have a first-hand knowledge of the field, quite frankly, and I am not sure there is a profile of the commission in the ethnic community. Certainly I am getting the idea there is not a high profile of the Ontario Human Rights Commission amongst the ethnic community.

Some of the rapid processes initiated four or five years ago to try to speed up solutions to some of the problems before the commission have probably been failures. What is happening is that out of 1,000 or 1,500 or 1,600 cases, maybe 50 or 60 are getting to a hearing or a board of inquiry. When we have put the onus, as we have, back on the complainant to fill out the forms and to dig up the evidence and the information, in all too many cases many of them cannot or will not cope with that or are afraid of coping with it and they end up dropping it. There is a tremendous dropout rate among people who have problems before the commission.

They should be able to have their day in court with respect to a complaint, and quite frankly they are not getting it. I also think there is some real need for an appeal procedure, even though it is generally argued that the board of inquiry covers that procedure, such as it exists at the Ontario Labour Relations Board or the Workers' Compensation Board.

I have a specific question as well. I have not verified this totally, but I am told there is not a race relations officer in the northern part of this province. I find that ludicrous. If that is accurate, I just simply cannot understand it. I would say to the minister that he has a real problem here and he is going to have to take a look at it very quickly.

Procedures for certifications by unions have cried out for a change for years now. Company rights should be limited to providing evidence of the makeup of the bargaining unit. The terminal date should be the application date. The restrictions on those who can be certified for collective bargaining purposes need some quick updates.

For a specific example, I will go back just for a second to the human rights situation. Providing the additional 40 or 41 staff, or whatever it was the minister mentioned in his statement, is probably not going to be successful unless he can also set up some kind of independent or separate training procedure for these people. There is also a very high burnout rate at the human rights staff level that is recognized by a lot of people who work there.

What it is doing is knocking out their initiative to get into cases and to handle the load of cases. If the minister is going to throw the new people in with the staff that is there right now—and that is not a knock per se at that staff—he is going to have the same kind of problems and he is going to have a perception or an approach to it that is not going to be very helpful when dealing with an area in which we really do have some problems.

I have talked about easier processes for certification and mentioned some of them. It is maybe not a case we would normally be seen to be taking up, but a couple of weeks ago I sponsored a press conference at the request of the Federation of Engineering and Scientific Associations dealing with the crown attorneys in Ontario, the psychiatric hospital medical staffs in Ontario, their staff association, and with the Ontario Nurses' Association. All of these people have reached a point of frustration.

I have a clipping here somewhere, but I will not try to look it up now, that shows the result of this is a job action with respect to some of the psychiatric doctors. I do not know if it is accurate or not, but they tell me they have had great difficulty in trying to arrange a meeting with the minister and that the frustration level within these groups has reached a very high level.

I have difficulty knowing why. I have introduced bills for management people to have the right to organize. I cannot understand why we are denying the certification procedure. It may or may not be the answer for these more professional groups. But if they want it, if they are asking for it, if their frustration has driven them to it, why do they have such a difficult time having the right to get certified and set up the collective bargaining process themselves? The minister has a problem there he has to take a look at.

Why are agricultural workers, if I may come back to it once again, still denied coverage under the Labour Relations Act? How many years in a row now have I raised the mushroom factory in Wellington county where you have a punch-card, moving production line, three-shift operation and they are considered agricultural workers. I

have never seen or heard of anything so ridiculous that it has taken so long to do something about.

The minister has some problems with respect to domestic workers. He is aware of the outstanding problems. I am not going to spend a lot of time on them, but the time off or free period provisions are totally inadequate for domestic workers. They do not ensure a consecutive 48-hour break from work. The hours of work are a real problem, particularly for live-in domestics. The room-and-board issue is one they will go into at some length with the minister. I know he has met with them, as we have.

10:10 p.m.

The role of babysitters and companions is an issue they are concerned with, the part-time issue; their lack of coverage under the Labour Relations Act—all are legitimate complaints. These are workers about whom we have raised questions. We saw some real exploitation in how they were used and treated in this province. I note the International Coalition to End Domestic Workers' Exploitation said the minister agreed with us that live-in domestic workers in particular are wide open to exploitation by their employers. With that kind of a statement by the minister, the time has come for a real breakthrough in action to deal with the problems that have been presented very clearly to him in the field of domestic workers.

I have difficulty knowing why it is so difficult to deal with the pay equity issue in Ontario hospitals. I have difficulty knowing why the Canadian Union of Public Employees has such a hard time selling the idea of a minimum hospital workers' rate to the minister. It seems to me it is not a difficult issue with which to come to grips and it is certainly a justifiable one.

I note here men working in the lowest-paid job category in hospitals, cleaners, earn a top rate of \$10 per hour. Women working in the lowest-paid job categories, dietary, housekeeping, laundry and some levels of clerical jobs, earn a top rate of less, sometimes substantially less, than that \$10-an-hour rate. I just have difficulty understanding why we have some problems coming to grips with what is an obvious inequity in this particular situation.

I have to ask the minister if he does not see—I say this in a friendly way but very bluntly—the hypocrisy in the narrow definition of the public sector he is attempting to use in the pay equity issue. Essentially, only those under the Crown Employees Collective Bargaining Act are public workers for purposes of the initiatives in the public sector. All other public sector and

municipal workers are to be considered under the private sector initiatives in pay equity in the examination that is going on.

I want to remind the minister as strongly as I can to compare this with the bitter battle we went through for 90 days in this House over restraint legislation, which took away workers' rights that, in effect, covered all those in the public sector. When we were going to do them in and take away rights they had negotiated and control their wages, then no matter whether they were hospital or municipal workers, or any kind of worker under any broad definition you wanted to raise who could be considered a public sector worker, they got the shaft.

But now that we are going to move, we take the narrowest definition possible for the first group we are going to move on. Frankly, there is a bit of a double standard there that bothers me no end and it is a rather obvious one. While hospital workers are considered an essential service, I am quite aware this does not show in their pay packages. That is normally one of the counter-arguments you hear.

The new initiatives in bankruptcy cases have been long awaited and I look forward with interest. I also am reasonably impressed with the Brown report but I want to see the initiatives the minister is going to take in this particular field. I was going to go into a little more detail but we can do it under one of the other headings, the pay equity and wage insolvency issues.

I want to take a couple of minutes to deal with the question of first-contract legislation. It is an issue about which I have had some arguments and discussions with the deputy minister and a number of other people in recent days. As the minister is well aware, we have had a working group going. We have sort of withdrawn from it to let them have the lead. An Ontario Federation of Labour committee I have been privileged to sit on, and which has included the legal staff of most of the major unions, drafted a proposal. I did not expect that to fly as the bill that was presented, but I also made very clear their concerns with the legislation and, frankly, we have some difficulties with the bill the minister has brought forward. I will go over them quickly so they will be on record.

The strengths lie, first, in who arbitrates, which provides an alternative arbitration by the Ontario Labour Relations Board to the labour movements concerned. It looks as though there are some real improvements in time limits. Subsections 40a(1) through (4) set out the time limits for an arbitrated settlement.

I understand it works as follows: From the time it is determined a settlement cannot be arrived at by agreement, the board has 30 days to decide whether it will arbitrate. There is then a seven-day notice period during which any party can opt for private arbitration.

Once it is determined, the board arbitrator has 21 days in which to commence the hearing and a further 45 days to release its decision. The elapsed time from the minister indicating no settlement to a final decision is 103 days, although it would be possible to shave some time off the various sections. The important point is that there are clearly defined time limits and that is useful.

Recall rights: Under subsection 40a(11), once the strike or lockout ends or the determination to arbitrate has been made, workers are reinstated and we see that as a positive measure. It protects workers and union organizers who might otherwise be dumped by the employer. The retroactivity is also a measure that we commend.

The fundamental problem with the legislation and the real weakness is that the fight around first contracts leaves it open as to whether arbitration is offered as a right or a remedy. While in my wildest dreams I did not think we would get it totally open as a right, I thought it would be better than what we have in this bill because that is going to be the problem with this legislation as I see it.

The labour movement has argued that a union should not be forced to jump through hoops to get arbitration and it should not have to prove the employer has bargained in bad faith to get a remedy from the board. Basically, the party to which the minister belongs seems to have rejected the perspective of the labour movement and our position. Maybe there is still a compromise there that could be supported, I do not know.

Subsection 40a(2) of the bill establishes the preconditions to first-contract arbitration and gives the board the authority to decide whether those preconditions have been set. I will not read them into the record but from these flow a number of other concerns.

First, the board is required to examine the conduct of the parties during negotiations—who said what to whom and when, and what was the intent, and we are back into the old arguments we have had in the past.

Second, the onus of proof rests with the union. It must prove to the board that the employer has refused to recognize it. In clauses (b) and (c) the onus is on whichever party applies for arbitration

to prove the other was acting in an inappropriate fashion. The problem here is that weaker and smaller unions are in many cases up against strong employers and the union is going to be at a distinct disadvantage.

I know that bothers some of the ideologues of the right who think we have achieved some kind of balance, but let me tell you we have not and, in many cases, the finesse is not there that you will meet from the companies' and lawyers' side of the issue.

The Liberals, in their presentation, argued the legislation strengthens collective bargaining. I really do not think it does. We have to see a rather more open right to that first contract request.

There are also some concerns with subsection 2 and, in particular, with subsections 15 and 17. I am not going to go into those, we will do that a little later, but let me be frank with you: The sense that we have with this bill and the reservations we sense coming from your side is that they are very much like the ones we got from the Conservative government, that somehow or other we might be being a little too tough on business.

This is not a direct cost to government and it is not going to be as difficult to deal with business about this, in my opinion, as with some of the equal pay legislation. If we have ever had an opportunity to make a breakthrough, I think this was the bill and the time to do it.

I am really asking the minister to look seriously at some additional moves in regard to access to the procedure because, as I said earlier, if he really wants to start breaking new ground on an issue that does not have a cost factor or anything else associated with it, this is one of the areas in which it could be done.

I want to say that I hope he will take a good look at it. I have already had my words with his deputy minister over just who is influencing whom in regard to the legislation and the particular bill that is before us. I am being very kind there; I have been rougher in some past years. I just think I was looking for a slightly more progressive initiative from my friend in this particular legislation.

10:20 p.m.

Let me also indicate my chagrin at the lack of any action concerning excessive overtime in the province. Why are we not dealing with planned overtime as a very real employment initiative in Ontario? Does the minister have any real idea of the extent of excessive overtime in this province? I presume he is doing some work on it; I know we are.

I was shocked to receive a memo from a friend of mine today—he requested that I would not use the names involved—about Stelco, a company the minister recently talked to. One worker there has already put in more than 600 hours of overtime. The company, knowing all of a sudden that the heat was on, has cut him off overtime. Another worker has put in more than 450 hours of overtime. I am just dealing with a couple of individual cases that I found when I was trying to find out what the hell was going on.

The use of overtime in Ontario is on the rise. I recognize that in the immediate past—it was not as big an issue a number of years ago—we have been almost the lone voice on this issue in the province, and occasionally we have run afoul of some of our union friends. That is no longer the case. I am not saying you do not get people who want the overtime in the trade union movement, but we are now getting staff people, heads of unions, local union officers, rank-and-filers—it was a rank-and-filer who came to me with the Stelco information—saying, “We cannot afford to see 800 or 900 of our brothers out of work in this place and to see the kind of overtime that is being worked in our plants.”

There is a time when you lead, and this is certainly a case when you should lead. There are problems at Inco. I could go through a long list but I will just go through one of the more prominent ones. I know the union met with the Premier (Mr. Peterson) and you on September 27 and raised the issue of overtime. You sent officials to Sudbury to check Inco's records. The report of that investigation was to be ready, as I understood it, by October 8.

I would like to know if you have the results of that as yet; we have not seen it if you have. The aluminum locals and my own steelworkers' union are asking the government to launch an investigation of your policy in regard to granting overtime permits in the aluminum industry. They have asked that overtime permits be cancelled.

The United Auto Workers—we raised this recently in the House and it is a hot issue out there—has organized information pickets at the Brampton operation to complain about the overtime.

Since February, Northern Telecom has laid off 470 plant workers and 70 office workers and has increased the overtime. It seems to be increasing the overtime to make up for the lost number of employees. More than 3,000 hours of overtime were logged in one week in the plant and more than 4,500 hours of overtime were recorded over

a two-week period in the office, a much smaller operation. That is a fantastic situation.

Local 1005 has complained to you, as you know. I have the original letter here from the president of the local. The union survey there indicated that in a six-week period last winter 12,400 hours of overtime were chalked up. This is at a time when we have a large number of workers in that place on layoff.

The minister is well aware of the situation at General Mills. I have sat with some of the plant union members in my office and gone over the letters. What bothers me there is that a number of years ago the ministry was very tough on the company about its overtime hours in the letters that came from the employment standards branch. In this last year, we have gone back to exactly the same thing. We have a letter from one of the employment standards people saying "Clean up your act," so to speak.

The minister probably knows that one of the requests I made to the director of the employment standards branch, some three weeks before this was raised in the House, was, "For God's sake, can you do another investigation?" As soon as he got some of the information, he said yes. I do not know whether he did it then or checked with you first or whether you ordered him to do it, but I asked for that better than three weeks ago because of the stories that were coming in to me about the overtime in that plant.

Boise Cascade Canada Ltd. in the north has been very upset about the workers there. As of September 1985, the number of workers who worked more than 40 hours per week was 40,000 higher than the year before. The increase in work permits from 1984 to 1985 was 24.8 per cent. When the reference week in September showed better than seven million hours of overtime, taking it as a 40-hour work week, you had enough additional work—and I know you could not lay it out totally—to put 188,500 people to work. That is damned near half the unemployed people we have in Ontario.

I know some problems go with that but, if we are looking at ways for people to work in Ontario, we have an obvious one right here on the issue of planned overtime. It is one that will be resisted by the companies because, in most cases, it is easier to pay the overtime than to rehire staff or keep staff and pay the extra benefits and all the rest of it.

We have some real problems, aided and abetted by the changes in new technology and what is happening in the work force and the change in some of our basic smokestack indus-

tries. If we do not look for answers in areas like this, I do not know what we are going to do to put people to work in Ontario.

It is interesting to take a look at paid vacations and holidays in the province. I was really interested in doing a little bit of background work here. I went to our own research people and to the library research people, and I took a look through the legislation that exists.

Ontario is not doing very well in this area. We do not do too badly compared to other provinces, but in British Columbia, there are an eight-hour day and a 40-hour week, and in Manitoba, there are an eight-hour day and a 40-hour week. We still have the 48-hour week here, as the minister knows. New Brunswick has a 44-hour week, Newfoundland has a 44-hour week and Nova Scotia is the same as us. Prince Edward Island a 48-hour week, Quebec a 44-hour week, Saskatchewan a 40-hour week, the Northwest Territories a 44-hour week and the Yukon a 40-hour week.

I do not know why I think so, but it seems to me Ontario should be leading the field and not dragging behind most of the field in taking a serious look at the hours of work per week. I see it as one of the serious ways we can take a look at spreading out the work when people are desperate to have some kind of meaningful employment. It does not help our country any when we do not have it.

The other thing is statutory holidays. Why do we have so much difficulty in leading this field as well? Most of the provinces do better than Ontario. Just because I want them, I seem to be having trouble finding the sheets I was looking for. I do know there are two provinces with five paid holidays. There are a couple with seven, as Ontario has. The rest of them have eight, nine and, in the federal jurisdiction, 10.

Some countries are looking at additional paid holidays. Japan is one of them. Substantial increases in them is one way to help the employment situation and also to put a little more consumer purchasing out in the community. A number of useful arguments can be made for that. We are long overdue in this province in taking a look at Boxing Day, Easter Monday and a civic holiday or something. At least it would get us up to the top; if not leading the field, we would not be following behind either.

I want to deal with a memorandum I have that outlines some of the vacations that exist in other countries. I took a quick look at some of the other countries in the so-called free western world. I have used Sweden as an example a number of

times before. When I looked at this, I thought I had been making a mistake in past years, but I realized this is as of 1982 and they have added a week since then. They did have 25 days on a five-day week, or five weeks' holidays. They have six weeks now in that country.

In the Netherlands, they have 15 days, three weeks or 18 days and a six-week vacation. That is only a little better than us with two weeks, but some of the other countries that are listed have four weeks. France has 30 days on a six-day week that are paid holidays for the workers.

If you go through the list of countries, you will find a number of countries that do not make us look too good in terms of the vacations people have. I think it is part and parcel of being a little more humane. We want workers involved in feeling they are part of the system. We also have to see that they get some of the benefits, whether it is the right to enjoy some of their vacation time or whatever it may be.

Think about it. It is a very small item. I am not sure how much resistance you would have here. I

know it is always a worry of the minister, but just adding to our current seven days would bring us up close to the lead. Two days would bring us up to the top level with two or three other provinces, but still behind the federal government in terms of paid holidays. Why not take a look at it?

I am not going to spend a lot of time on this, because I have done it in the other estimates, but I do want to deal briefly with the technological changes. I have about 10 minutes to go. Maybe we could adjourn here and I could finish it within 10 minutes in the next sitting.

The Vice-Chairman: I will ask the committee members whether we should adjourn at the normal time and continue next Tuesday evening.

Mr. Mackenzie: Tuesday evening is appropriate. There are some people for whom I have to make arrangements to get on a bus.

The Vice-Chairman: All right. We will adjourn until next Tuesday evening.

The committee adjourned at 10:31 p.m.

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